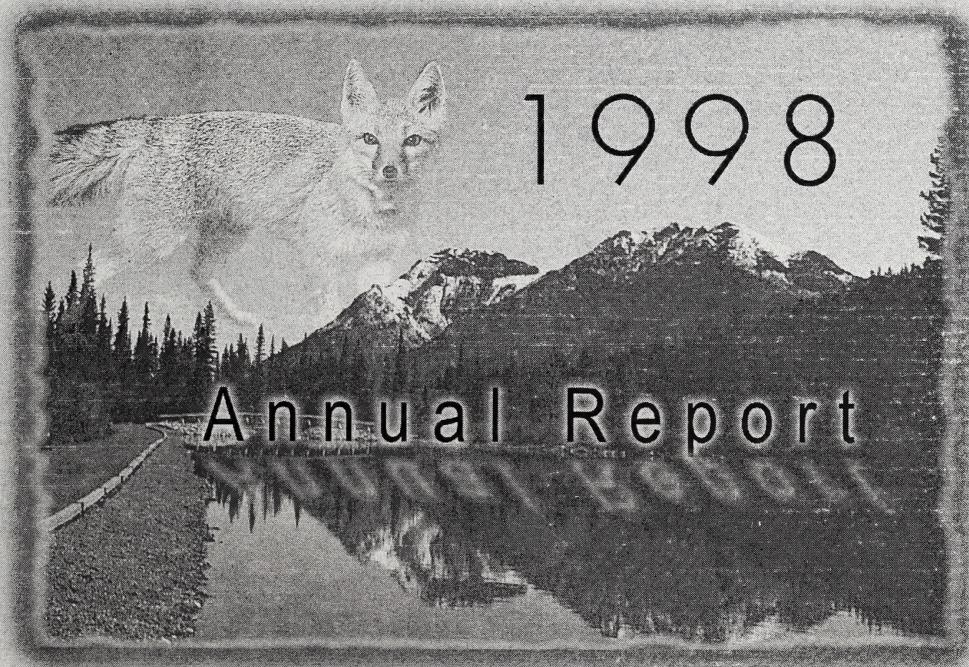


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# Environmental Appeal Board



1998

Annual Report

January 1, 1998 to  
December 31, 1998





1998  
Report  
Environmental  
Appeal Board  
Alberta

ALBERTA  
ENVIRONMENTAL APPEAL BOARD

*Office of the Chairman*

March 4, 1999

The Honourable Ty Lund  
Minister of Environmental Protection  
323 Legislature Building  
Edmonton, Alberta  
T5K 2B6

Dear Mr. Lund:

**Re: Environmental Appeal Board - 1998 Annual Report**

I respectfully submit the 1998 Annual Report of the Environmental Appeal Board for the period covering January 1, 1998 to December 31, 1998.

Yours truly,

William A. Tilleman  
Chairman

cc: Mr. J.R. Nichols, Deputy Minister



1998

Annual Report

# Annual Report

## Environmental Appeal Board of Alberta



January 1, 1998 to December 31, 1998

## Additional Copies

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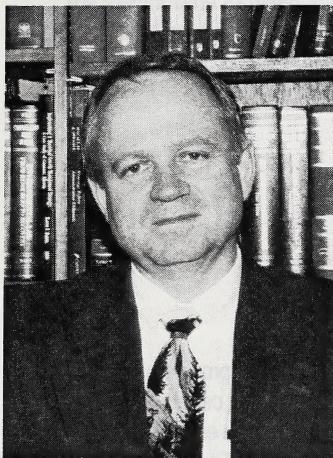
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## Message from the Chair



At the end of another year of activity and accomplishment for the Environmental Appeal Board, it is my pleasure as the Chair to have the opportunity to reflect on the role that the Board has played in the sustainable resource management of the environment in Alberta.

When the *Environmental Protection and Enhancement Act* created the Board in 1993, the Board was conceived as a body that would offer an unbiased and impartial approach to regulated industry. Initially, the panels reviewing proposals for legislative change were concerned that regulated industries believed they were being treated unfairly by government regulators and were being required to meet more stringent requirements than were justifiable in the circumstances.

As the Act, its regulations and the Board have evolved, it has become apparent that the public and industry are also concerned with the licensing process. Albertans look to an independent appeal process as a way of having a say in the licensing of projects that might, through their operations, have a negative impact on the environment.

It is our responsibility as the Environmental Appeal Board to work with all stakeholders to ensure that the environmental component of any equation is properly taken into account.

To say that we are living in a time of increasing change and complexity is something of a cliché as we draw near to the next millennium. As stewards of the environment, the Board is faced with the practical and concrete effects of that reality with

each appeal filed. The decisions we are called upon to make affect people, communities and the nature around us in very profound ways. It is up to us to recognize the many environmental and economic intricacies that must be considered. It is up to us to build the resources and partnerships that we need to expand our capacity. It is up to us to create or recommend to the Minister, conditions that will permit cooperative solutions to succeed.

We will continue with efforts to establish a tradition and reputation of providing fair and impartial decisions while providing a balance between economic development and environmental protection. We have not shied away from the issues that face us. We have embraced the need to work more effectively and efficiently so that the resources entrusted to us by Albertans can be put to best use. The best use reflects the unique realities of our province and the very immediate and practical need to protect that environment from the risk of potentially harmful business or personal practices.

It has been an honour for me to serve as Chair of the Board for yet another year and I look forward to working with the Board members, industry and Albertans as we chart the course ahead.

# Mission Statement

The Environmental Appeal Board was established to provide fair, impartial and efficient resolution of all matters before it, and at the same time, ensure that the protection, enhancement and wise use of Alberta's environment are maintained. The Board operates consistent with and subject to the purposes of the *Environmental Protection and Enhancement Act*.

## Background

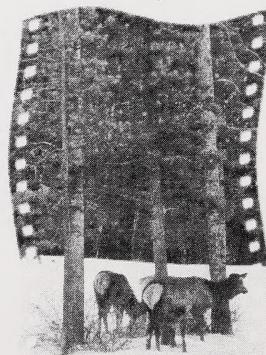
### General

The mission of the Environmental Appeal Board is to provide a vehicle whereby Alberta citizens and corporations can appeal certain decisions of the Department of Environmental Protection regarding the environment. In order to properly perform this function, the members of the Board must have a broad range of technical and scientific expertise as well as good people skills.

The Board deals with appeals presented to it in two manners: first, a serious attempt is made to mediate the dispute in an informal setting with the mediation conducted by a Board member; second, if the mediation is unsuccessful, the appeal is heard by a panel of Board members excluding the member who attempted the mediation. Mediation can result in a resolution of the appeal that is more favourable than the hearing process because it is based on choices made by all parties together.

In order to fulfill its mission, the Board must operate in a way which is accepted by the appellants and must appear unbiased in its dealings and decisions. In addition, it must have a good understanding of the technical and scientific backgrounds of the matters brought before it. It is the sincere desire of the Board to become one of the leading environmental appeal bodies in North America.

On quality, it is the policy of this Board that a written decision is prepared for all hearings, whether they involve a multi-million dollar pollution clean-up or issues of land reclamation. These reasoned decisions would analyse each of the issues raised during the hearing and give clear and cogent reasons for the Board's decision on each issue. Clear written reasons not only show the parties that their evidence and arguments were understood and provide assistance to the courts and the Minister when Board decisions are appealed, but they also provide a permanent record of the Board's reasoning.



process that helps future parties in determining whether to appeal and if so, how to conduct their appeal effectively.

The quality or importance of these decisions is reflected by their selection into the Canadian Environmental Law Reports and the Administrative Law Reports. The Board's decisions have also been the subject of scholarly analysis in law journals and have been widely reported in other legal and environmental publications.

The Board is committed to evaluating all scientific evidence presented by any party to an appeal in the context of the best available, current scientific knowledge, that is of course relevant and applicable to the key matters of the case appealed. However, the Board recognizes that this goal must be pursued in a manner which does not place appellants who lack their own scientific support at any disadvantage in the process.

## History

An environmental appeal process for Alberta was first proposed in early 1988 by the Review Panel on Environmental Law Enforcement. The panel had been asked by the Alberta Government to make recommendations to strengthen the enforcement of Alberta's environmental statutes. With respect to licence appeals, this panel recommended that:

- ❖ an appeal process or mechanism be established for an appeal from a permit or licence decision of the Director of Standards and Approvals to be made to avoid the imposition of unrealistic terms and to ensure that licence negotiations not carry on indefinitely;
- ❖ standing to appeal be available to the applicant and to third parties who can demonstrate both an interest in and a potential impact from the applicant's operation;
- ❖ the appeal board be made up of representatives from government, industry and the public;
- ❖ the appeal board have jurisdiction to hear all appeals of licences issued pursuant to environmental statutes;
- ❖ the appeal be heard within a specified number of days; and
- ❖ further appeal to the courts be restricted to questions of law or jurisdiction.

In June of 1990, a discussion draft of the *Environmental Protection and Enhancement Act* was released by the Honourable Ralph Klein, then Minister of Environment. It contained several sections establishing "boards of review" (similar to those under the *Canadian Environmental Protection Act*) to hear appeals of certain specified matters. The government appointed the Environmental Legislation Review Panel, chaired by Brian Evans, past Minister of Justice, to provide members of the public the opportunity to express their views. The panel held public meetings throughout the province in the fall of 1990 and received both oral and written submissions. It submitted its report in January of 1991 and the concept of an appeal mechanism was confirmed.

The discussion draft was redrafted and introduced in the Legislative Assembly as Bill 53 in June of 1991. Bill 53 changed "boards of review" to an

"Environmental Appeal Board" similar to the one we see today. In May of 1992, following further public input, the Act was re-introduced as Bill 23 and received third reading and Royal Assent on June 26, 1992. It was proclaimed effective September 1, 1993, and the Environmental Appeal Board was created as of that date.

The Board was conceived as a body that would offer an unbiased and impartial approach to regulated industry. The panels reviewing proposals for legislative change were initially concerned that regulated industries believed they were being treated unfairly by government regulators and were being required to meet more stringent requirements than were justifiable in the circumstances. However, in the course of the development of the Act and its regulations, it became apparent that members of the public were also concerned with the licensing process and looked to an independent appeal process as a way to have a say in the licensing of the projects that might, through their operations, have a negative impact on the environment. The government responded to these concerns and, as a result, the Board is now in place to hear appeals and make decisions or recommendations in accordance with its powers under the Act.

The Board replaced several discrete appeal processes that were available under statutes repealed by the Act.

1. Appeals under the *Agricultural Chemicals Act*, to the Agricultural Chemicals Advisory Committee.
2. Appeals of chemical control orders issued under the *Hazardous Chemicals Act*, to the Hazardous Chemicals Advisory Committee.
3. Appeals of stop sale orders and depot operation stop orders issued under the *Beverage Container Act*, to the Minister of Environment Council of Alberta for inquiry.
4. Appeals under the *Ground Water Development Act*, to an appeal board established by the Minister.
5. Appeals of stop orders issued under the *Land Surface Conservation and Reclamation Act*, to the Minister and the Environment Council of Alberta for inquiry.
6. Appeals of stop orders issued under the *Clean Water Act* and the *Clean Air Act*, to the Minister and the Environment Council of Alberta for inquiry.
7. Appeals of stop orders issued under the *Department of Environment Act*, to the Minister and the Environment Council of Alberta for inquiry.
8. Appeals of clean-up orders issued under the *Litter Act*, to review committees appointed by the Minister.



## Core Business

The Board's core business is to hear appeals from applicants and affected parties on decisions regarding environmental approvals, enforcement actions, reclamation certificates, certificates of qualification, and other matters.



Its objectives are:

1. to strive for correctness and precision in decision-making;
2. to maintain fair and simple procedures;
3. to give priority to the substance of an appeal rather than its form;
4. to consider appeals as expeditiously as possible;
5. to provide sound appeal procedures and issue clear and consistent decisions on the new statutory provisions;
6. to ensure the availability of Board decisions, rules and procedures to parties that appear before the Board;
7. to decrease the time needed to process appeals;
8. to focus on dispute resolution options in mediation meetings and monitor their success;
9. to recommend sound and well-documented legislative changes;
10. to develop closer contacts with the various interest groups to keep abreast of industry, public and government concerns and proposals for change;
11. to formalize the long-range planning and budget review process for the Board;
12. to achieve fairness and unbiased results, having regard for the purpose of the Act and the interests of all parties to an appeal; and
13. to make energetic and productive use of the Board's resources in meeting the needs of the parties.

## Operating Principles

### *Shared Responsibility*

Through partnership with Albertans, we strive to give Albertans the opportunity to have a voice through appeal procedures that ensures Alberta's renewable resources are managed appropriately.

### *Public Involvement*

The Board strives to increase Albertans' awareness and understanding of our mandate and to increase public participation through creative appeal procedures such as mediation.

## Operating Principles

### *Customer Service*

The Board is dedicated to serve Albertans in all regions of the province.

### *Ecosystem Sustainability*

The Board believes that a healthy environment is essential to the integrity of ecosystems and human health and to the well-being of society.

### *Scientific and Technical Leadership*

The Board hears and processes appeals on the basis of proper and appropriate science, technology and environmental information.

### *Sustainable Development*

By hearing appeals in a fair and effective manner, the Board tries to ensure the wise use of our renewable resources so that future generations can also enjoy and use the environment.



## Strategies

The Environmental Appeal Board employs the following strategies to achieve its objectives:

1. where appropriate, use written rather than public hearings in order to minimize costs;
2. use a single Board member for each mediation meeting and encourage the use of alternative dispute resolution mechanisms, such as mediation, where possible;
3. use alternative dispute resolution options in mediation meetings and monitor their success;
4. train Board members and staff to mediate those appeals that are amenable to settlement;
5. utilize three-person appeal panels, organized where possible, on a regional basis to minimize travel and meeting costs;
6. ensure the availability of Board decisions, rules and procedures to parties that appear before the Board so as to achieve greater understanding, reduce unnecessary appeals and generate informed suggestions for future change;
7. maintain Board rules and procedures in an accessible manner to ensure consistency of application, to reduce time taken in processing appeals, and to focus Board decisions on providing procedural fairness where possible;
8. consolidate individual appeals where possible;



9. provide access to the Board for all parties (business, government and the public), including telephone access for out-of-town parties;
10. maintain Board documents, rules and procedures in an updated form, eliminating inaccurate or outdated information and providing both Board staff and Board clientele with easy access to the records of outstanding appeals;
11. monitor Part 3 of the Act and the regulations; and
12. review and rationalize, as necessary, Board staffing requirements.

## The Act and Regulations

The provisions relating to the Board are found in Part 3 of the Act, the Environmental Appeal Board Regulation and the Environmental Protection and Enhancement (Miscellaneous) Regulation. The Board has statutory authority to hear appeals of administrative decisions made with respect to a variety of matters regulated by the *Environmental Protection and Enhancement Act*. Effective January 1, 1999, appeals under the *Water Act* will fall under the jurisdiction of the Environmental Appeal Board.

Generally, the Board has the power to make recommendations to the Minister of Environmental Protection on matters brought before it, with the Minister making the final decision. On matters relating to requests for confidentiality, Stays, costs, and administrative penalties, the Board makes the final decisions. In carrying out its functions, the Board has the powers of a commissioner under the *Public Inquiries Act*, including the ability to retain experts to assist with matters before the Board and to compel persons or evidence to be brought before the Board. Although it is not subject to the provisions of the *Administrative Procedures Act*, the Board has an obligation to operate in accordance with the principles of natural justice. The Board does not replace or eliminate the right of Albertans to seek judicial review in the courts consistent with normal common law practice.



## Board Membership

Members of the Board are appointed by Cabinet (section 83(1)). All members are part-time members and are paid on a per diem basis and are reimbursed for their expenses. When there is an appeal, it is normally mediated. Failing mediation, the appeal is heard by a panel of the Board consisting of three Board members.

In 1993, the Minister and Cabinet commenced operations of the Board by appointing a minimum number of persons - a chair, vice-chair and two members. Through the Environmental Protection Advisory Committee, which represents and liaises with some 30 provincial interest groups and industry organizations, the Minister invited applications from suitably qualified individuals.

From applications received and processed by the Public Service Commissioner's office, interviews were conducted by a selection committee that reported to the Minister and was chaired by Dr. Natalia Krawetz (then from the Chief Executive Office of the Environment Council of Alberta). The Order in Council appointing the Board members was signed on August 25, 1993, with four appointments effective September 1, 1993, for a one-year period. In August 1994, Cabinet extended the terms and appointed an additional member whose application was originally approved by the selection committee in 1993.

The Chair of the Board is Dr. William Tilleman, a Calgary environmental lawyer and adjunct professor at the University of Calgary, Faculty of Law. Dr. Tilleman holds a J.S.D. from Columbia University, New York and has acted for government, private industry, and has counselled a variety of Canadian administrative boards. The other current Board members are Dr. M. Anne Naeth, a professional biologist and agrologist, and a Professor in the Department of Renewable Resources, Faculty of Agriculture, Forestry and Home Economics at the University of Alberta; Dr. John Ogilvie of Priddis, a semi-retired Ph.D. in Metallurgy with a broad industrial experience in North America; Mr. Ron Peiluck, an active consultant to industry, with a biology background and a master's degree in land and water resource development; Dr. Steve Hrudey, a Professor with the Environmental Health Program, Faculty of Medicine at the University of Alberta, with a risk management and environmental health background and a Ph.D. in Public Health Engineering; Dr. Ted Best, an active consultant, with a background that includes a Ph.D. in Geology and the Advanced Management Program at Harvard Business School; and Dr. Curt Vos, a physician in family practice and industrial medicine and an active member of numerous community organizations such as the Strathcona Chamber of Commerce, the Strathcona Library Board and the Strathcona Care Centre.



## Staff and Office Accommodation

The Board has five full-time staff members consisting of an Executive Director and Registrar of Appeals, Office Administrator, two Administrative Assistants and a Research Assistant.

The Board office is located on the 4th floor of the Alberta Treasury Branches Plaza, at 9925 - 109 Street. This location allows the Board to conduct public meetings and hearings at a lower cost, within its own location, therefore, not requiring it to lease a larger facility.



## Mediation

Enthusiasm for the expanded use of alternative dispute resolution (ADR) in Canadian environmental law has been growing. The federal government and some provincial governments have enacted legislation implementing a variety of ADR methods and techniques in various administrative contexts. In addition, environmental tribunals have been using ADR techniques, mostly on an ad hoc basis and, in a few tribunals, on a more formal basis. It is clear that most of this activity has been shaped by the growing popularity of ADR in the context of Canadian civil litigation, and in several other areas of public law. It also appears that they have been influenced by the writings of academics and practitioners claiming impressive cost and time savings through the use of ADR.

Despite this growing interest, ADR is still at an early stage of development in the Canadian administrative context, in contrast to the United States, where the use of ADR in environmental and other administrative settings is relatively well-established. ADR does not currently play a central role in the administration of Canadian environmental law. Even though reforms have been instituted in some jurisdictions, particularly on the provincial level, to date, there has not been a systematic effort to catalogue ADR activities in each Canadian jurisdiction. The lack of such a study has left legislators and tribunals without a clear sense of what their



counterparts in other jurisdictions are doing. When Canadian tribunals have proceeded into the new territory of ADR, each tribunals has had to go it alone, proceeding from "scratch."

When conflict occurs between parties, there are many reasons why an attempt to properly manage this conflict is to be preferred over a full hearing. They are:

- ❖ it airs and resolves problems in a private setting;
- ❖ prevents more serious conflict;
- ❖ stimulates search for new information and solution to problems;
- ❖ increases group cohesion and performance;
- ❖ meets new standards or expectations; and
- ❖ results in change whether on a personal, environmental, economic, political or legal basis.

In order to attempt to manage conflict, negotiation at some point, has to occur. Negotiation is a basic means of getting what you want from others. It is back-and-forth communication designed to reach an agreement when you and the other side have some interests that are shared, other interests, of course, will be opposed.

We negotiate because conflict is a growth industry and everyone wants to participate in discussions that affect them. Fewer people readily accept decisions dictated by someone else. People differ and they use negotiations to handle their differences. Whether in business, government, or in the family, people reach most decisions through negotiations. Even when people go to court, they most always negotiate a settlement before trial.

## Mediation - Why Use It?

Mediation is problem-solving by consensus in that it involves a neutral third party. Mediation is used for the following reasons:

- ❖ Mediation is fast. It can take place as soon as the parties and the mediator are available.
- ❖ Mediation is provided without fee to either party.
- ❖ Mediation, if successful, produces an agreement in which all parties have participated - it is your solution and not one imposed by the Board, the Minister or the Court.
- ❖ Mediation is more likely to preserve a good relationship, and in some cases may restore this relationship to the benefit of all parties.
- ❖ Mediation is flexible and informal and can be tailored to the circumstances and needs of the parties. It can be conducted at a convenient location in person, in writing, or by telephone, depending upon the wishes of the parties and the Board.



### Mediation - Why Use It? - cont'd

- ❖ Mediation provides a neutral person who helps the parties work through their differences by encouraging effective communication and clear explanations, while keeping emotions under control.

### The Mediator

A mediator guides the process by providing basic procedural information and directing the process. The mediator remains neutral throughout the process, and facilitates communication between the parties.

A mediator facilitates communication by listening effectively, clarifying perceptions, and unmasking assumptions. The goal of the mediator is to engender respect throughout the process, building trust, and use humour in appropriate ways.

A mediator, while exploring positions, summarizes and integrates differing views, affirms the interest identified by the parties, and recommends referrals such as joint retention of experts. The mediator helps parties generate imaginative solutions for a win/win outcome that works, helping all parties save face.

Finally, a mediator tests assumptions, manages the emotional climate, examines all positions and helps to develop understanding and empathy.

The following outlines the mediation process as it is used by the Environmental Appeal Board.

### General

When the parties to the appeal have been determined, the Board may, on its own initiative or at the request of any of the parties to the appeal, schedule one or more mediation meetings/settlement conferences prior to the date set for the hearing of the appeal. The purpose of a mediation meeting/settlement conference is to facilitate the resolution of the appeal or to determine any of the procedural matters set out in the Regulation. Parties should come to the mediation/settlement conference fully prepared for a useful discussion of all issues involved in the appeal, both procedural and substantive, and authorized to negotiate and make decisions regarding these issues.

### Facilitation

Reasonable notice of the time, place and purpose of the mediation meeting/settlement conference is given in writing to the parties and other persons, if any, who are participating or seek to participate in the appeal. A mediation or settlement conference is held in person unless the presiding Board member concludes that personal attendance by him/her and the parties is unwarranted or impractical. In this instance, the



## Facilitation - cont'd

mediation/settlement conference may be held by telephone or other appropriate means.

Section 11 of the Regulation contemplates that one purpose of a mediation/settlement conference is to facilitate the resolution of the appeal. Board members have mediation training and, where possible, will attempt to facilitate a resolution of the appeal at a mediation meeting/settlement conference. Alternatively, if it appears it would be productive, the Board may adjourn its hearing for a reasonable time to allow for third-party mediation.

The Board member who facilitates the mediation/settlement conference will not be a member of the panel that hears the appeal.

When the parties agree to a resolution of the Notice of Appeal at the mediation meeting/settlement conference, the Board shall, within 15 days after the mediation/settlement conference, prepare a Report and

Recommendations that is signed by the parties and reflects the agreed upon resolution. The Report and Recommendations shall be submitted to the Minister to be dealt with according to the Act, and a copy of the Report and Recommendations will be sent to each party.



## Procedural Matters

Where the parties do not agree to a resolution of the Notice of Appeal at the mediation meeting/settlement conference, the Board in consultation with the parties may:

- ❖ determine a date for a future mediation meeting/settlement conference before the hearing;
- ❖ admit any facts relevant to the hearing consented to by the parties;
- ❖ admit any evidence relevant to the hearing consented to by the parties;
- ❖ determine any matter of procedure;
- ❖ determine the order of witnesses for the hearing;
- ❖ have the parties exchange documents and written submissions;
- ❖ determine any other matters for the hearing;
- ❖ determine the issues for the hearing pursuant to section 87(2) and (3); and
- ❖ obtain the signature of the person submitting the request.

Where the Board receives a request in writing, it shall determine whether the person submitting the request should be allowed to make representations in respect of the subject matter of the Notice of Appeal.

As a general rule, those persons or groups wishing to intervene must meet the following tests:

- ❖ their participation will materially assist the Board in deciding the appeal by providing testimony, cross-examining witnesses, or offering argument or other evidence directly relevant to the appeal; the intervenor has a tangible interest in the subject matter of the appeal; the intervention will not unnecessarily delay the appeal;
- ❖ the intervenor in the appeal is substantially supporting or opposing the appeal so that the Board may know the designation of the intervenor as a proposed appellant or respondent;
- ❖ the intervention will not repeat or duplicate evidence presented by other parties; and
- ❖ if the intervention request is late, there are documented and sound reasons why the intervenor did not earlier file for such status.

When the Board makes the determination as to whether or not the person submitting the request should be allowed to become a party, it shall give the person written notice of that decision. In the discretion of the Board, a person may be denied intervention in a matter in which he/she could have participated as a party, but failed in a timely fashion to avail himself/herself of the opportunity to do so. Those wishing to become involved in the appeal process must therefore make their intentions known to the Board as soon as possible.



## Presentations

Through requests from various groups, the Board has provided public awareness regarding its process in the form of public presentations. The following is a list of forums in which either the Board or staff participated in and provided information.



## Presentations

| Dates               | Presenter    | Group/Location  |
|---------------------|--------------|---|
| March 22, 1996      | Chairman     | University of Calgary - Role of the Environmental Appeal Board  |
| March 29, 1996      | Chairman     | University of Calgary<br>Environmental Management and Sustainable Development<br>Programs   |
| May 7, 1996         | Vice-Chair   | Canadian Prairie and Northern Section of the Air and Waste<br>Management Association - Appeals, Process and Cases - Calgary                   |
| May 27 and 28, 1996 | Chairman     | Canadian Institute<br>- Environmental Law and Regulation in Alberta - Calgary   |
| November 13, 1996   | Chairman     | University of Calgary   |
| January 16, 1997    | Chairman     | Canadian Bar Association - Mediation Edmonton   |
| February 11, 1997   | Chairman     | University of Calgary - Ethics and Natural Resources  |
| February 19, 1997   | Chairman     | University of Calgary - Environmental Appeal Board Powers and<br>Decisions from an Ethical Perspective  |
| February 24, 1997   | Chairman     | Canadian Institute on Administrative Justice Conference - The<br>Hearing Process - Calgary  |
| March 19, 1997      | Chairman     | Alberta Arbitration and Mediation Society - Edmonton  |
| June 1, 1997        | Chairman     | Annual Conference of the Council of Canadian Administrative<br>Tribunals - Adding to our Alternative Dispute Resolution Resources<br>- Ottawa |
| September 17, 1997  | Registrar    | The Canadian Chemical Producers' Association<br>- The Role of the Environmental Appeal Board - Joffre   |
| November 3, 1997    | Chairman     | British Columbia Council of Administrative Tribunals - Vancouver  |
| November 18, 1997   | Chairman     | University of Calgary, Faculty of Environmental Science   |
| January 13, 1998    | Chairman     | Law Firm of Testa, Hurwitz & Thibeault, - Transboundary Effects of<br>Environmental Planning, Boston, MA                                      |
| April 24, 1998      | Chairman     | Alberta Urban Municipalities Association, - EAB Process -<br>Edmonton   |
| May 7, 1998         | Registrar    | Alberta Urban Municipalities Association, Environmental Committee<br>- EAB Mandate & Activities   |
| May 12, 1998        | Chairman     | Calgary Chamber of Commerce - EAB Process   |
| May 21, 1998        | Board Member | Canadian Land Reclamation Association, Calgary  |
| November 5, 1998    | Chairman     | Russian Environmental Delegates (Arranged by Intergovernmental<br>Affairs), Calgary - Overview of the EAB                                     |
| November 26, 1998   | Chairman     | CEA - Consulting Engineer Association - Overview and Mandate of<br>the Board, Edmonton  |
| December 11, 1998   | Chairman     | University of Calgary - Mediation   |
| February 2, 1999    | Chairman     | Canadian Bar Association, South Alberta Environmental Law<br>Section - Developments of the EAB, Calgary                                       |
| February 10, 1999   | Chairman     | Canadian Institute for the Administration of Justice - "Issues of<br>Independence", Edmonton  |

## Public Consultations

| Date              | Purpose of Consultation/<br>Hearing/Meeting  | Location<br>(town, facility)       | Written/Oral<br>Submissions | Attendance<br>(projected/actual) |
|-------------------|--|------------------------------------|-----------------------------|----------------------------------|
| January 31, 1998  | Preliminary meeting held to hear issues from participants regarding the reconsideration of the appeal by the Board with respect to an application for a Beverage Container Depot to Environmental Protection by Nazmin Nurani of Roper Bottle Depot.   | Edmonton Board Office              | 7/2                         | 15                               |
| January 19, 1998  | Mediation meeting held to hear concerns of Maurice and Paulette Rivard with respect to an Approval issued by Environmental Protection to the Town of Bonnyville for the operation of a wastewater system.  | Bonnyville                         | 3/3                         | 6                                |
| February 4, 1998  | Preliminary meeting held to hear concerns of Danadam Consulting, with respect to an Approval issued by Environmental Protection for a Universal Beverage Container Depot in the name of Callingwood Bottle Depot.  | Edmonton Board Office              | 3/3                         | 9                                |
| February 9, 1998  | Mediation meeting held to hear concerns of Richard Stelter with respect to the issuance of an Approval by Environmental Protection to G.M.B. Property Rentals Ltd. (Pine Shadow Estates) regarding sewer disposal.   | Edson Provincial Building          | 3/3                         | 5                                |
| February 13, 1998 | Preliminary meeting held to hear concerns of ten Appellants regarding an Approval issued by Environmental Protection to Yuan Yi (Canada) Ltd. for the Lethbridge hog plant.  | Lethbridge<br>Lethbridge Lodge     | 2/11                        | 31                               |
| February 19, 1998 | Mediation meeting held to hear concerns of Fay Ash with regard to two pesticide Approvals issued to the City of Calgary by Environmental Protection.   | Calgary<br>McDougall Centre        | 4/4                         | 5                                |
| February 27, 1998 | Hearing held to hear concerns of Wayne Henuset of Willow Park Liquor Store regarding the denial of an application for a Universal Beverage Container Depot by Environmental Protection. Fish Creek Bottle Depot, Trail Bottle Exchange Inc., Calgary Bottle Exchange and the Alberta Bottle Depot Association also participated in the hearing as intervenors. | Calgary<br>Federal Court of Canada | 6/3                         | 11                               |
| April 8, 1998     | Hearing held to hear concerns of Fay Ash and intervenors with respect to two pesticide Approvals issued to the City of Calgary by Environmental Protection.  | Calgary<br>Federal Court of Canada | 5/4                         | 23                               |
| April 23, 1998    | Hearing held to hear concerns of Richard Stelter with respect to the issuance of an Approval by Environmental Protection to G.M.B. Property Rentals Ltd. (Pine Shadow Estates) regarding sewer disposal.   | Edmonton Board Office              | 3/3                         | 8                                |

| Date            | Purpose of Consultation/<br>Hearing/Meeting  | Location<br>(town, facility)          | Written/Oral<br>Submissions | Attendance<br>(projected/actual) |
|-----------------|--|---------------------------------------|-----------------------------|----------------------------------|
| April 29, 1998  | Hearing held to hear issues from Alberta Bottle Depot Association, Capilano Bottle Depot, Millwoods and Strathcona Bottle Depots, and the Bottle Bin Bottle Depot regarding an Approval issued by Environmental Protection for a Beverage Container Depot for Nazmin Nurani of Roper Bottle Depot. | Edmonton Board Office                 | 6/3                         | 17                               |
| May 8, 1998     | A continuation of the hearing from April 8, 1998 to hear concerns of Fay Ash and intervenors with respect to two pesticide Approvals issued to the City of Calgary by Environmental Protection.  | Calgary<br>Federal Court of<br>Canada | 5/4                         | 15                               |
| May 14, 1998    | Mediation meeting held to hear concerns of Roy Haugen <i>et al</i> on behalf of Concerned Citizens of West Central Lloydminster (209 Appellants) regarding an Approval issued to ADM-Agri Industries Ltd. by Alberta Environmental Protection for the Lloydminster oilseed crushing plant.         | Lloydminster<br>Wayside Inn           | 7/6                         | 9                                |
| June 8, 1998    | Mediation meeting held to hear concerns of George Miasnikoff and Urban Ore Farms Ltd. regarding 2 Environmental Protection Orders issued by the Director of Pollution Control and the Inspector of Land Reclamation of Alberta Environmental Protection.   | Devon Community Hall                  | 0/3                         | 8                                |
| June 22, 1998   | Meeting held regarding issues relating to an Approval issued to Chem-Security (Alberta) Ltd.   | Edmonton Board Office                 | 0/6                         | 6                                |
| June 23, 1998   | Hearing held to hear concerns of Wayne and Laurel Penson regarding a Reclamation Certificate issued by Environmental Protection to Pembina Corporation.  | Grande Prairie<br>Court House         | 3/3                         | 14                               |
| July 13, 1998   | A continuation of the hearing from June 23, 1998, to hear concerns of Wayne and Laurel Penson regarding a Reclamation Certificate issued by Environmental Protection to Pembina Corporation.   | Grande Prairie<br>Court House         | 3/3                         | 12                               |
| July 17, 1998   | Mediation meeting held to hear concerns of Legal Oil and Gas regarding 4 Environmental Protection Orders issued to them by Alberta Environmental Protection.   | Edmonton Board Office                 | 0/7                         | 14                               |
| August 12, 1998 | Second mediation meeting held to hear concerns of George Miasnikoff and Urban Ore Farms Ltd. with respect to 2 Environmental Protection Orders issued to him by Alberta Environmental Protection.  | Devon Community Hall                  | 0/3                         | 12                               |

| <b>Date</b>        | <b>Purpose of Consultation/<br/>Hearing/Meeting</b>  | <b>Location<br/>(town, facility)</b>   | <b>Written/Oral<br/>Submissions</b> | <b>Attendance<br/>(projected/actual)</b> |
|--------------------|--|--|-------------------------------------|--|
| August 25, 1998    | Hearing held to hear concerns of G & J Fossen Ranch with respect to a Reclamation Certificate issued by Alberta Environmental Protection to Magin Energy.  | Provost Recreation & Culture Centre    | 3/3                                 | 15                                       |
| September 9, 1998  | Mediation meeting held to hear concerns of Gertie & Rudy Mizera, Adelhardt Glombick, Marilyn Fenske and Alice Mahlum with respect the issuance of an Approval to the Beaver Regional Waste Management Services Commission. | Ryley<br>County of Beaver<br>Bldg.     | 6/6                                 | 13                                       |
| September 10, 1998 | Preliminary meeting held to hear concerns of Brian Bildson, with respect to an Approval issued to Smoky River Coal Ltd. by Alberta Environmental Protection.   | Edmonton Board Office                  | 3/3                                 | 10                                       |
| September 28, 1998 | Mediation meeting held to hear concerns of Norman Zeer, with respect to an Approval issued to the County of Newell No. 4 by Alberta Environmental Protection.  | Duchess<br>Residence of the Appellant  | 3/3                                 | 7  |
| September 30, 1998 | Mediation meeting held to hear concerns of E.W. Grumbach, with respect to an Approval issued to the Town of Rimbey by Alberta Environmental Protection.  | Bentley<br>Residence of the Appellant  | 3/3                                 | 9  |
| October 1, 1998    | Preliminary meeting held to hear concerns of Alan Gaskell regarding an Approval issued to TransAlta Utilities Corporation by Alberta Environmental Protection.   | Edmonton Board Office                  | 0/3                                 | 7  |
| October 21, 1998   | Mediation meeting held to discuss the refusal of the Department of Environmental Protection to amend an Approval issued to Solv-Ex Corporation.  | Edmonton Board Office                  | 3/3                                 | 7  |
| October 22, 1998   | Mediation meeting held to discuss concerns of Legal Oil and Gas Ltd. with respect to Environmental Protection Orders EPO98-01-98-04 issued by Alberta Environmental Protection.  | Edmonton Board Office                  | 2/6                                 | 12                                       |
| November 5, 1998   | Mediation meeting held to hear concerns of Bob Collins, with respect to a Reclamation Certificate issued to Gulf Canada.   | Stettler<br>Residence of the Appellant | 3/3                                 | 6  |
| November 6, 1998   | Mediation meeting held to discuss concerns of Legal Oil and Gas Ltd. with respect to Environmental Protection Orders EPO98-01-98-04 issued by Alberta Environmental Protection.  | Edmonton Board Office                  | 0/4                                 | 8  |

| Date              | Purpose of Consultation/<br>Hearing/Meeting   | Location<br>(town, facility)             | Written/Oral<br>Submissions | Attendance<br>(projected/actual) |
|-------------------|---|--|-----------------------------|----------------------------------|
| November 10, 1998 | Preliminary meeting held to hear concerns of Brian Bildson, with respect to an Approval issued to Smoky River Coal Ltd. by Alberta Environmental Protection.  | Edmonton Board Office                    | 3/3                         | 10                               |
| November 12, 1998 | Mediation meeting held to hear concerns of Gertie & Rudy Mizera, Adelhardt Glombick, Marilynn Fenske and Alice Mahlum with respect the issuance of an Approval to the Beaver Regional Waste Management Services Commission.   | Edmonton Board Office                    | 6/6                         | 13                               |
| November 25, 1998 | Preliminary meeting held to hear concerns of Gertie & Rudy Mizera, Adelhardt Glombick, Marilynn Fenske and Alice Mahlum with respect the issuance of an Approval to the Beaver Regional Waste Management Services Commission. | Edmonton Board Office                    | 6/6                         | 14                               |
| December 18, 1998 | Mediation meeting held to hear concerns of Joanne Vang, with respect to an Approval issued to Mr. C. Chase Hoffman for a sand and gravel pit.   | Turner Valley Residence of the Appellant | 3/3                         | 6                                |



## Finances

The Board's budget is \$509,000 for the fiscal year 1998/99.

The Board continues to strive to maintain its budget with the increasing demand upon it as appeals are an externally driven force and cannot be controlled by the Board. Fiscal responsibility will continue to be a top priority of the Board while still meeting the needs of Albertans.

# Summary of Spending Profile

|                            | 1996-97<br>Actual <sup>1</sup> | 1997-98<br>Actual <sup>1</sup> | 1998-99<br>Estimate <sup>1</sup> | 1999/2000<br>Estimate <sup>1</sup> |
|----------------------------|--------------------------------|--------------------------------|----------------------------------|------------------------------------|
| Approved Operating Capital | 508,343                        | 593,868                        | 509,000                          | 509,000                            |
| Total                      | 508,343                        | 593,868                        | 509,000                          | 509,000                            |

<sup>1</sup> The workload of the Board is externally driven, and the costs will accordingly vary with the number of appeals that are filed. The generation of appeals is a matter that is beyond the Board's control.



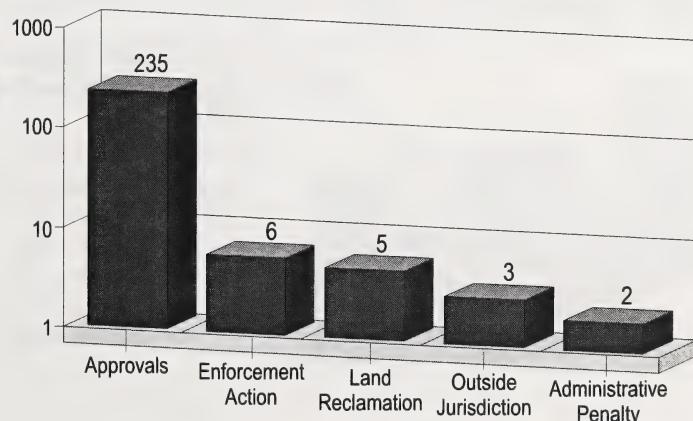
## Workload

- 1 001 (Iwaskow), 002 (Pashniak), 003 (Aiken), 010 (Lucey), 012 (North Springbank Water Co-op Ltd.), 013 (County of Red Deer), 014 (Hardy), 015 (Lucey), 016 (Haugen), 017 (Milne), 018 (Smith), 019 (Kuzyk), 020 (Keating), 024-226 (Haugen *et al.*), 227 & 228 (Lucey), 230 (Bildson), 231 (Mizera), 232 (Globnick), 233 (Fenske), 234 (Mahlum), 235 (Grumbach), 236 (Fenske), 237 (Gaskell), 238 (Zeer), 239 (Continental Lime Ltd.), 240 (Sov-Ex Corp.), 243 (Stelter), 244 (Vang), 245 (Jordan), 246 (Parry), 248 (Ladouceur), 250 (O'Neill).
- 2 006, 007, 008 and 009 (Legal Oil & Gas), 021 & 022 (Miasnikoff & Urban Ore Farms Limited).
- 3 004 (G&J Fossen Ranch Ltd.), 005 (Penson), 242 (Collins), 249 (Schultz), 251 (Cabre Exploration Ltd.).
- 4 011 (Ault), 247 (Bodo Oilfield Maintenance Ltd.).
- 5 023 (Taxbock), 229, (Lucey) 241 (Fenske).

Increasingly stringent environmental standards and increasing enforcement of environmental laws have resulted in a continuing increase in the number and complexity of appeals to the Board. In addition, the increased interest of the public in the issues before the Board reflect higher numbers of appeals being filed, than originally expected. This requires more of the members' time, higher administrative costs, and increasingly complex legal and scientific issues.

During this calendar year, the Board received 251 appeals (including amendments and refusals): 235 pertained to approvals<sup>1</sup>, 6 to enforcement actions<sup>2</sup>, 5 to reclamation certificates<sup>3</sup>, 2 were administrative penalties<sup>4</sup>, and 3 were out of the Board's jurisdiction<sup>5</sup>. Details of the 251 appeals are set out in Appendix A.

**Chart I**  
**1998 Appeal Types**



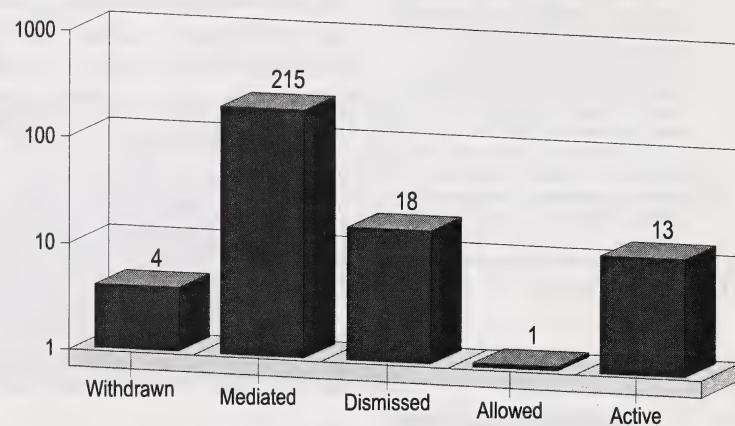
## Workload - cont'd

6 209 relate to 1 Approval Holder.  
7 98-002 (Pashniak), 013 (County of Red Deer), 239 (Continental Lime Ltd.), 249 (Schultz).  
8 98-008 (Legal Oil & Gas), 011 (Ault), 014 (Hardy), 016 (Haugen), 017 (Milne), 018 (Smith), 019 (Kuzyk), 020 (Keating), 021 and 022 (Miasnikoff & Urban Ore Farms Ltd.), 024-226 (203) (Haugen et al.), 235 (Grumbach), 244 (Vang).  
9 98-001 (Iwaskow), 003 (Aiken), 004 (G&J Fossen Ranch Ltd.), 010 (Lucey), 012 (North Springbank Water Co-op Ltd.), 015 (Lucey), 023 (Taxbock), 227, 288 and 229 (Lucey), 230 (Bildson), 234 (Mahlum) 236 (Fenske), 237 (Gaskell), 241 (Fenske), 245 (Jordan), 246 (Parry), 248 (Ladouceur).  
10 98-005 (Penson).  
11 98-006, 007 and 009 (Legal Oil & Gas), 231 (Mizera), 232 (Glombick), 233 (Fenske), 238 (Zeer), 240 (Solv-Ex Corp.), 242 (Collins), 243 (Stelter), 247 (Bodo Oilfield Maintenance Ltd.), 250 (O'Neill), 251 (Cabre Exploration Ltd.).

Of the 251 appeals, filed during 1998<sup>6</sup>; as illustrated in Chart II, 4 were withdrawn by appellants<sup>7</sup>, 215 were resolved by the parties with the Board serving as the mediator<sup>8</sup>, 18 were dismissed by the Board<sup>9</sup>, 1 was allowed<sup>10</sup>, and 13 are in the process of being heard/decided<sup>11</sup>. During the 1998 calendar year, the Board issued 32 Report and Recommendations, and Decisions pertaining to 237 appeal files.



**Chart II**  
**Results of Total Appeals**  
**Filed - 1998**



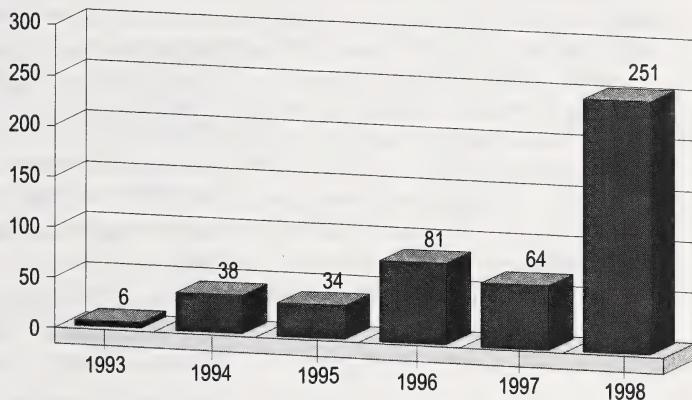
In 1998, the Board expects to face an increasing number of appeals. The new Water Act will provide the Board with greater challenges to meet and exceed over the next year.



## Summary of Appeals

Appendix A outlines the Board's activities for this reporting period, as well as activities outstanding from previous years, that were dealt with during the 1998 calendar year. The following demonstrates the increase in the number of appeals filed that has occurred over the last 6 years.

Chart III  
Number of Appeals Filed  
1993 - 1998



12 Of the 251, 209 relate to 1 Approval Holder.

As seen in Chart III, 6 appeals were filed with the Board during the period of September to December, 1993. Presuming a constant rate of appeals filed, it is estimated that 24 appeals would have been filed in total during the 1993 calendar year. During the 1994 calendar year, 38 appeals were filed, representing a 58% increase to the estimated number of appeals for 1993. As appeals are externally driven, there are no obvious factors to account for the increase between 1993 and 1994, other than awareness of the Board's existence to members of the public and industry. During 1995, 34 appeals were filed. This represents a decrease of 11% from the previous year, but a 42% increase over the number of appeals in 1993. Again, no rationale is provided for the decrease from 1994 to 1995. However, at the end of 1996, 81 appeals had been filed. This represents a 138% increase over that of the previous year. The majority of the appeals filed in 1996 related to one approval issued by the Department. During 1997, 64 appeals were filed which would provide an average of 48 appeals per year over the last five years. In 1998, 251 appeals were filed<sup>12</sup>, 4 were withdrawn by the appellants, 215 were resolved by the parties with the Board serving as the mediator, 18 were dismissed by the Board, 1 was allowed, and 13 are in the process of being heard/decided.



The Board's decisions and recommendations are public documents and may be viewed at any of the following locations:

- ❖ Environmental Law Centre, #204, 10709 Jasper Avenue, Edmonton;
- ❖ Alberta Environmental Protection, 6th Floor, 9920 - 108 Street, Edmonton;
- ❖ John A. Weir Memorial Law Library, University of Alberta;
- ❖ Law Library, University of Calgary;
- ❖ Canadian Institute of Resources Law, 3330 Professional Faculties Building, Block B., University of Calgary;
- ❖ Canada Law Book Inc., 240 Edward Street, Aurora, Ontario, L4G 3S9;
- ❖ Canadian Environmental Law Reports, 2075 Kennedy Road, Scarborough, Ontario, M1T 3V4;
- ❖ Western Legal Publications, 301 One Alexander Street, Vancouver, British Columbia, V6A 1B2;
- ❖ The Association of Professional Engineers, Geologists and Geophysicists of Alberta, 5th Floor, Tower One Scotia Place, 10060 Jasper Avenue, Edmonton, Alberta, T5J 4A2; and
- ❖ The Legal Education Society of Alberta, 2610 Canada Trust Tower, 10104 - 103 Avenue, Edmonton, Alberta, T5J 0H8.

Additionally, the decision and recommendation reports are available through the Quick Law database. They are reported in the Environmental Law Digest, Canadian Environmental Law Reports, Administrative Law Reports and are posted on the Board's web site under the address of <http://www.gov.ab.ca/eab/>. During the last calendar year the web site was visited 2,977 times.



## Regulatory Reform

As part of the Regulatory Reform process, the Board surveyed stakeholders for their views on the Rules of Practice and the amendments to the Environmental Appeal Board Regulation. A Regulatory Reform Task Force was set up in 1995 to review all existing regulations for possible elimination or amendment. From the action plan developed by the Task Force, a majority of the Ministry's regulations are scheduled to expire in 1998 as was indicated in their updated action plan of March 11, 1996. The



action plan indicates that the Environmental Appeal Board regulations will not expire as they are being reviewed on an ongoing basis to ensure they continue to be effective and efficient.

In order to ensure the Board is constantly linked to the public interest, during the 1997 calendar year, the Board sought public consultation on its mandate, goals and objectives, Rules of Practice and its regulations. As the Board had several years of experience and growth, it was timely to amend the Regulation in 1999 to incorporate amendments that would enhance the operation of the Board and the appeal process. This assists the Board to conform to the Regulation Reform practice by government ensuring increased efficiency to all Albertans. In considering the comments received from the various stakeholders, the Board will continue to strive to ensure its practices result in fair, impartial and efficient resolution of environmental appeals. A public document outlining the comments from stakeholders (73 in all) was placed on the web site and is available at the Board office. Public consultation will also occur during the fall of 1999 to review the newly established Regulation and Board Rules of Practice.



## Rules of Practice

In May 1994, the Board identified the need to establish Rules of Practice to assist laypersons to understand the Board and its procedures. As provided for in section 87(8) of the Act, the Board drafted a set of rules and sought comments from some 40 parties. These groups and individuals represented industry, environmental organizations, the general public, government departments and the legal community. The Board reviewed the comments and suggestions it received, and made a number of changes to the document. Following a public consultation process that occurred in 1998, some revisions are occurring to the Rules to encompass comments received from Albertans, to further enhance services. Copies of the Board's rules are available at the Board office as well as the website at [www.gov.ab.ca/eab](http://www.gov.ab.ca/eab).



When the *Environmental Protection and Enhancement Act* created the Board in 1993, the Board was conceived of as a body that would offer an unbiased and impartial approach to regulated industry. Initially, the panels reviewing proposals for legislative change were concerned that regulated industries believed they were being treated unfairly by government regulators and were being required to meet more stringent requirements than were justifiable in the circumstances.



As the Act, its regulations and the Board have evolved, it has become apparent that the public is also concerned with the licensing process. Albertans look to an independent appeal process as a way of having a say in the licensing of projects that might, through their operations, have a negative impact on the environment.

It is the responsibility of the Environmental Appeal Board to work with all stakeholders to ensure that the environmental component of any equation is properly taken into account.

We have debated these issues and have involved Albertans in the search for acceptable solutions. We can look with pride and satisfaction on the work the Board has done, confident that we have put our resources to good use and that the alternative dispute resolution processes we continue to evolve will increase our ability to provide a safe, healthy and prosperous environment for not only ourselves, but for generations to come.

As we move into the last year of this millennium, and as the challenges of leadership in a time of change grow ever greater, we recognize the benefits we have provided and pledge to continue to make the most of this Board as an instrument of environmental stewardship working with all stakeholders as we chart the course ahead.

For more information, contact:

Joanne Taylor-Weir  
Executive Director and  
Registrar of Appeals  
Environmental Appeal Board  
400 - 9925 - 109 Street  
Edmonton, Alberta T5K 2J8





## Summary of Appeals





## Appeals Received

### Date Filed

### Appellant(s)/Location

September 19, 1994

Sarg Oils and  
Sergius Mankow  
Milk River  
(94-011)

### Subject

On September 19, 1994, 16 appeals were filed by Sarg Oils and Sergius Mankow with respect to 16 Environmental Protection Orders (EPO) issued by the Director of Land Reclamation Division. The Orders required the Appellants take remedial action with respect to 16 abandoned well sites in Camrose. The Board issued a report on May 11, 1995 indicating that the Director did not err in issuing the EPOs against Mankow and Sarg. The Board's decision underwent judicial review in the Court of Queen's Bench with a judgment stating that the Board must rehear the appeal. A hearing took place on November 5 and 6, 1996 in Edmonton. The Board issued a Report and Recommendations to the Minister on December 5, 1996, confirming the Inspector issued the EPOs properly; however, directed that the Inspector of Land Reclamation immediately examine the criteria followed when deciding what parties are to be recipients of EPOs; and the criteria should be made publicly available. The Minister agreed with the Board's report on December 16, 1996. On May 12, 1997, counsel for Sarg Oils and Sergius Mankow filed legal action in the Court of Queen's Bench in Lethbridge. As of December 31, 1998, the judicial review is pending.

December 20, 1995

Ed Graham, Lesser Slave  
Lake Indian Regional  
Council, Lesser Slave Lake  
and Toxics Watch Society  
Edmonton

Fort Assiniboine  
(Chem-Security  
(Alberta) Ltd.)  
(95-025)

The appeal relates to the operation of the Alberta Special Waste Treatment Centre. On December 20, 1995, Ed Graham of Fort Assiniboine filed an appeal regarding Approval 95-IND-237 which was renewed to Chem-Security (Alberta) Ltd. by the Director of Chemicals Assessment and Management. This was the first permanent Approval for the operation of the incinerator issued pursuant to the *Environmental Protection and Enhancement Act*. On December 21, 1995, the Lesser Slave Lake Indian Regional Council and on January 3, 1996, the Toxics Watch Society filed appeals. The Toxics Watch Society subsequently withdrew their appeal. The Board issued a Decision on June 28, 1996, and a copy was forwarded to the Minister. The Board ordered that a hearing on the matters of PCB fugitive emissions and off-site surface water discharge be held. The sole Appellant in the appeal is Charlie Chalifoux. The Board's Decision was the subject of judicial review. As a result of the judicial review, the scheduled hearing for November 19, 20 and 21, 1996, had been adjourned. The case was heard in special chambers on October 3, 1996, by Justice D.H. Medhurst. On January 13, 1997, Justice Medhurst issued a decision stating that the application by Chem-Security is dismissed. On January 17, 1997, Chem-Security filed an appeal of Justice Medhurst's decision. The appeal was heard on May 16, 1997, by Justices of the Court of Appeal, Berger, Picard, and Hunt. On July 16, 1997, the Court issued a decision stating that the appeal by Chem-Security is dismissed. On August 6, 1997, the Board directed that the hearing of September 8, 1997, will be limited to matters of PCB fugitive emissions and off-site discharge of surface waters. Charlie Chalifoux applied to the Court of Queen's Bench for an order setting aside the decision of the Board as set out in its letter dated August 6, 1997. On November 14, 1997, Justice W.E. Wilson issued a decision ordering that the decision of the Board as set out in its letter of August 6, 1997, be set aside. Chem-Security appealed this decision in the Alberta Court of Appeal. The decision made by Justice Wilson was upheld by the Alberta Court of Appeal on May 14, 1998. A meeting was held on June 22, 1998 and a hearing has been set for May 18 and 19, 1999.

## Date Filed

## Appellant(s)/Location

## Subject

**June 14, 1996**

David and Ethel Jessey  
 (Municipal District of  
 Rocky View No.44)  
 Strathmore  
 (96-013)

David and Ethel Jessey filed an appeal on June 14, 1996, regarding Approval 918-01-00 issued by the Director of Air and Water Approvals to the Municipal District of Rocky View No. 44 to allow the operation of a Class I wastewater treatment plant and collection system. A pre-hearing meeting took place on August 27, 1996, and it was agreed by all parties that the appeal would be held in abeyance until June 30, 1998. The Appellants requested a six month adjournment, and this was granted. The appeal would now be held in abeyance until November 16, 1998. On November 16, 1998, the Appellants asked for a further adjournment of six months, and consent was received by all parties. The Board requested that all parties provide status of this appeal on or before May 17, 1999.

**May 30, 1997**

Shell Canada Limited  
 Olds  
 (97-019)

On May 30, 1997, Shell Canada Limited filed a notice of appeal with respect to Notice of Designation as a Contaminated Site #01/97 for property in the Town of Olds. A hearing took place on January 21, 1999 and a further hearing is scheduled for March 1999.

**June 3, 1997**

James Bain Spicer  
 Olds  
 (97-020)

On June 3, 1997, Mr. James Spicer filed a notice of appeal with respect to Notice of Designation as a Contaminated Site #01/97 for property in the Town of Olds. A hearing took place on January 21, 1999 and a further hearing is to be scheduled in March 1999.

**June 3, 1997**

Village of Duchess  
 Duchess  
 (97-021)

On June 3, 1997, the Village of Duchess filed an appeal with respect to Notice of Designation as a Contaminated Site #03/97 for property in the Village of Duchess. A hearing is scheduled for April 1999.

**June 6, 1997**

Canadian Imperial Bank of Commerce  
 Duchess  
 (97-022)

On June 6, 1997, the Canadian Imperial Bank of Commerce filed an appeal with respect to Notice of Designation as a Contaminated Site #03/97 for property in the Village of Duchess. A hearing is scheduled for April 1999.

**June 9, 1997**

Anton Planika  
 Olds  
 (97-023)

On June 9, 1997, Anton Planika filed an appeal of Approval No. 10348-01-00, for the operation and reclamation of a hazardous waste storage and hazardous recyclable and processing facility; and the construction, operation and reclamation of a hazardous waste landfill near the Town of Olds. A hearing took place on January 21, 1999 and a further hearing is to be scheduled in March 1999.

## Appeals Received

### Date Filed

### Appellant(s)/Location

### Subject

June 12, 1997

Shell Canada Limited  
Duchess  
(97-025)

On June 12, 1997, Shell Canada Limited filed an appeal with respect to Notice of Designation as a Contaminated Site #03/97 for property located in the Village of Duchess. A hearing is scheduled for April 1999.



July 7, 1997

Nazmin Nurani and  
Zeini Virji-Nurani,  
of Roper Bottle Depot  
(Universal Beverage Container Depot)  
Edmonton  
(97-026)

On July 7, 1997, Mr. Nazmin Nurani and Ms. Zeini Virji-Nurani filed an appeal regarding the failure of the Director of Chemicals Assessment and Management Division to approve Application No. BC 97-0003 for a new Universal Beverage Container Depot. A hearing was set for August 18, 1997, in Edmonton. The Board issued a Report and Recommendations to the Minister on August 22, 1997, recommending that the appeal be allowed and the Approval be granted. The Minister agreed with the Board's report on September 2, 1997. On September 26, 1997, the Board advised that it would hold a hearing on October 6, 1997, to determine whether it should reconsider its decision and, if so, to hold a new hearing in the matter. On January 29, 1998, the Board decided to proceed with a new hearing to consider if the Director was correct in denying the Appellant's application to operate a bottle depot. A hearing date was set for April 29, 1998, in Edmonton. The Board in its Decision of May 22, 1998 stated that it did not find there was a basis to set aside their previous Report and Recommendations, and approval for the establishment of the Roper Bottle Depot stands. On June 18, 1998, the Alberta Bottle Depot Association filed an application in the Court of Queen's Bench (9803-10403) regarding the Board's decision of May 22, 1998. The Honourable Justice Shannon dismissed the action against the Board on March 4, 1999.



July 8, 1997

Linda and Gerald Gjerde  
Olds  
(97-027)

On July 8, 1997, Ms. Linda Gjerde and Mr. Gerald Gjerde filed a notice of appeal with respect to Notice of Designation as a Contaminated Site #01/97 for property in the Town of Olds. A hearing took place on January 21, 1999 and a further hearing is to be scheduled in March 1999.



July 10, 1997

Ed and Tammy Asuchak  
Duchess  
(97-028)

On July 10, 1997, Ed and Tammy Asuchak filed an appeal with respect to Notice of Designation as a Contaminated Site #03/97 for property in the Village of Duchess. A hearing is scheduled for April 1999.

Date Filed

Appellant(s)/Location

August 11, 1997

Fay Ash & Don Munroe  
(The City of Calgary,  
Parks and Recreation)  
Calgary  
(97-031 - 97-032)

Subject

On August 11, 1997, Ms. Fay Ash and Mr. Don Munroe filed appeals regarding Approval No.'s 18445-01 and 47150 issued to the City of Calgary by the Director of Southern East Slopes and Prairie Regions, for the application of pesticide within 30 horizontal metres of an "open body of water." The Board held a preliminary meeting on October 23, 1997, in Calgary. The Board issued a Decision on November 13, 1997, finding: Ms. Ash directly affected by the Director's decision; dismissing Mr. Munroe's appeal as he is not directly affected; and, the issue of surface water quality as it relates to these Approvals to be the only matter that will be addressed at the hearing. In a Report and Recommendations issued by the Board on June 8, 1998 to the Minister, the approval was affirmed by the Board subject to a number of specific recommendations which the Minister approved on June 9, 1998. The Board also made a number of general recommendations which the Minister did not approve. In a Cost Decision dated February 5, 1998, the Board denied an application by Fay Ash for an award of interim costs. In a Cost Decision dated July 2, 1998, the Board denied all final cost claims and determined that all parties were to bear their own costs.



August 22, 1997

Wayne Henuset,  
Willow Park Bottle Depot  
Calgary  
(97-035)

On August 22, 1997, Mr. Wayne Henuset of Willow Park Bottle Depot filed a Notice of Appeal with respect to the failure of the Director of Chemicals Assessment and Management Division of Environmental Protection to approve Application No. BC 96-0028 for a beverage container depot. A mediation meeting was held on September 9, 1997. No resolution was reached at the mediation meeting, and a hearing was held on February 27, 1998. The Board issued a Report and Recommendations to the Minister on March 26, 1998 recommending that the appeal be allowed and the Director be directed to issue an Approval for the Willow Park Bottle Depot. The Minister agreed with this recommendation on March 26, 1998.



September 30, 1997

Maurice and Paulette Rivard  
(Town of Bonnyville)  
Bonnyville  
(97-038)

On September 30, 1997, Maurice and Paulette Rivard filed an appeal of Approval 439-01-01 issued to the Mayor of the Town of Bonnyville by the Director of the Northeast Boreal and Parkland Regions for the construction of a wastewater storage cell and groundwater monitoring wells. A mediation meeting was held on January 19, 1998. As a result of a resolution reached at the mediation meeting the Board issued a Report and Recommendations to the Minister on January 20, 1998 which the Minister approved on January 27, 1998.

Date Filed

Appellant(s)/Location —

Subject —

**October 6, 1997**

Alberta Bottle Depot Association  
(Nazmin Nurani of Roper Bottle Depot)  
Edmonton  
(97-039)

On October 6, 1997, the Alberta Bottle Depot Association filed an appeal regarding Approval 97-BCD-022 issued to Nazmin Nurani and Zeini Virji-Nurani of Roper Bottle Depot by the Director of Chemicals Assessment and Management Division for the operation of a beverage container and recycling depot. A preliminary meeting was held on January 13, 1998, and a hearing date was set for April 7, 1998, and then rescheduled for April 29, 1998, in Edmonton. Following the preliminary meeting of January 13, 1998, the Board found that there was new evidence, and decided to set aside their previous Report and Recommendations. The appeal was withdrawn by the Appellants on June 16, 1998 and the Board issued a Discontinuance of Proceedings on June 17, 1998.



**December 9, 1997**

Barry Marquardson  
(Yuan Yi (Canada) Co. Ltd.)  
Lethbridge  
(97-048)

On December 9, 1997, Mr. Barry Marquardson filed an appeal regarding the issuance of Approval No. 47294-00-00 by the Director of Southern East Slopes and Prairie Regions, to Yuan Yi (Canada) Co. Ltd. for the construction, operation and reclamation of a red meat processing plant in the City of Lethbridge. The Board requested that each of the parties file a status report by March 15, 1999, with a recommendation on how they wish to proceed. Upon review of these recommendations, the Board will decide whether to dismiss the appeals, to hold them in further abeyance, or to direct that the appeals go forward.



**December 4, 1997**

Richard Stelter  
(G.M.B. Property Rentals Ltd.)  
Edson  
(97-051)

On December 4, 1997, Mr. Richard Stelter filed an appeal regarding the issuance of Approval 1069-01-00 by the Director of Air and Water Approvals Division to G.M.B. Property Rentals Ltd. for the operation of a Class I wastewater treatment plant (wastewater stabilization ponds). The Board held a mediation meeting on February 9, 1998 in Edson. As there was no resolution, a hearing was scheduled on April 23, 1998, where the Appellant applied for costs and a Stay of the decision of the Director. On May 14, 1998, the Board issued its Decision granting the Stay. On May 22, 1998, the Board issued a Report and Recommendations to the Minister allowing the appeal, which was subsequently approved by the Minister on May 28, 1998. The Appellant also made application for costs to be applied against the Department. On June 18, 1998, a Cost Decision was issued stating no costs would be awarded.



**December 8, 1997**

Irvin W. Duncan  
(Yuan Yi (Canada) Co. Ltd.)  
Lethbridge  
(97-052)

On December 8, 1997, Mr. Irvin W. Duncan filed an appeal regarding the issuance of Approval No. 47294-00-00 by the Director of Southern East Slopes and Prairie Regions, to Yuan Yi (Canada) Co. Ltd. for the construction, operation and reclamation of a red meat processing plant in the City of Lethbridge. The Board requested that each of the parties file a status report by March 15, 1999, with a recommendation on how they wish to proceed. Upon review of these recommendations, the Board will decide whether to dismiss the appeals, to hold them in further abeyance, or to direct that the appeals go forward.

Date Filed

Appellant(s)/Location \_\_\_\_\_

December 9, 1997

Art Dueck,  
Dueck Equipment Ltd.  
(Yuan Yi (Canada) Co. Ltd.)  
Lethbridge  
(97-053)

Subject \_\_\_\_\_

On December 9, 1997, Mr. Art Dueck of Dueck Equipment Ltd., filed an appeal regarding the issuance of Approval No. 47294-00-00 by the Director of Southern East Slopes and Prairie Regions, to Yuan Yi (Canada) Co. Ltd. for the construction, operation and reclamation of a red meat processing plant in the City of Lethbridge. On March 25, 1998, Mr. Dueck withdrew his appeal and the Board issued a Discontinuance of Proceedings on March 31, 1998.



December 9, 1997

Jim Penton,  
Citizens for Environmental  
Responsibility and Public Disclosure  
(Yuan Yi (Canada) Co. Ltd.)  
Lethbridge  
(97-054)

On December 9, 1997, Mr. Jim Penton of Citizens for Environmental Responsibility and Public Disclosure, filed an appeal regarding the issuance of Approval No. 47294-00-00 by the Director of Southern East Slopes and Prairie Regions, to Yuan Yi (Canada) Co. Ltd. for the construction, operation and reclamation of a red meat processing plant in the City of Lethbridge. The Board requested that each of the parties file a status report by March 15, 1999, with a recommendation on how they wish to proceed. Upon review of these recommendations, the Board will decide whether to dismiss the appeals, to hold them in further abeyance, or to direct that the appeals go forward.



December 9, 1997

Sylvia Campbell,  
Southern Alberta Environmental Group  
(Yuan Yi (Canada) Co. Ltd.)  
Lethbridge  
(97-055)

On December 9, 1997, Ms. Sylvia Campbell of Southern Alberta Environmental Group, filed an appeal regarding the issuance of Approval No. 47294-00-00 by the Director of Southern East Slopes and Prairie Regions, to Yuan Yi (Canada) Co. Ltd. for the construction, operation and reclamation of a red meat processing plant in the City of Lethbridge. The Board requested that each of the parties file a status report by March 15, 1999, with a recommendation on how they wish to proceed. Upon review of these recommendations, the Board will decide whether to dismiss the appeals, to hold them in further abeyance, or to direct that the appeals go forward.



December 11, 1997

Ronald E. Harrison  
(Yuan Yi (Canada) Co. Ltd.)  
Lethbridge  
(97-056)

On December 11, 1997, Mr. Ronald E. Harrison filed an appeal regarding the issuance of Approval No. 47294-00-00 by the Director of Southern East Slopes and Prairie Regions, to Yuan Yi (Canada) Co. Ltd. for the construction, operation and reclamation of a red meat processing plant in the City of Lethbridge. The Board requested that each of the parties file a status report by March 15, 1999, with a recommendation on how they wish to proceed. Upon review of these recommendations, the Board will decide whether to dismiss the appeals, to hold them in further abeyance, or to direct that the appeals go forward.

## Appeals Received

### Date Filed

### Appellant(s)/Location

### Subject

**December 11, 1997**

Edward J. Ryan  
(Yuan Yi (Canada) Co. Ltd.)  
Lethbridge  
(97-057)

On December 11, 1997, Mr. Edward J. Ryan filed an appeal regarding the issuance of Approval No. 47294-00-00 by the Director of Southern East Slopes and Prairie Regions, to Yuan Yi (Canada) Co. Ltd. for the construction, operation and reclamation of a red meat processing plant in the City of Lethbridge. The Board requested that each of the parties file a status report by March 15, 1999, with a recommendation on how they wish to proceed. Upon review of these recommendations, the Board will decide whether to dismiss the appeals, to hold them in further abeyance, or to direct that the appeals go forward.



**December 11, 1997**

Gladys Ikle  
(Yuan Yi (Canada) Co. Ltd.)  
Lethbridge  
(97-058)

On December 11, 1997, Ms. Gladys Ikle filed an appeal regarding the issuance of Approval No. 47294-00-00 by the Director of Southern East Slopes and Prairie Regions, to Yuan Yi (Canada) Co. Ltd. for the construction, operation and reclamation of a red meat processing plant in the City of Lethbridge. The Board requested that each of the parties file a status report by March 15, 1999, with a recommendation on how they wish to proceed. Upon review of these recommendations, the Board will decide whether to dismiss the appeals, to hold them in further abeyance, or to direct that the appeals go forward.



**December 11, 1997**

Mickey Moriyama  
(Yuan Yi (Canada) Co. Ltd.)  
Lethbridge  
(97-059)

On December 11, 1997, Mr. Mickey Moriyama filed an appeal regarding the issuance of Approval No. 47294-00-00 by the Director of Southern East Slopes and Prairie Regions, to Yuan Yi (Canada) Co. Ltd. for the construction, operation and reclamation of a red meat processing plant in the City of Lethbridge. The Board requested that each of the parties file a status report by March 15, 1999, with a recommendation on how they wish to proceed. Upon review of these recommendations, the Board will decide whether to dismiss the appeals, to hold them in further abeyance, or to direct that the appeals go forward.



**December 12, 1997**

James N. Burness  
(Yuan Yi (Canada) Co. Ltd.)  
Lethbridge  
(97-060)

On December 12, 1997, Mr. James N. Burness filed an appeal regarding the issuance of Approval No. 47294-00-00 by the Director of Southern East Slopes and Prairie Regions, to Yuan Yi (Canada) Co. Ltd. for the construction, operation and reclamation of a red meat processing plant in the City of Lethbridge. The Board requested that each of the parties file a status report by March 15, 1999, with a recommendation on how they wish to proceed. Upon review of these recommendations, the Board will decide whether to dismiss the appeals, to hold them in further abeyance, or to direct that the appeals go forward.

### Date Filed

### Appellant(s)/Location

### Subject

**December 12, 1997**

Bronic Kasperski  
(Yuan Yi (Canada) Co. Ltd.)  
Lethbridge  
(97-061)

On December 12, 1997, Mr Bronic Kasperski filed an appeal regarding the issuance of Approval No. 47294-00-00 by the Director of Southern East Slopes and Prairie Regions, to Yuan Yi (Canada) Co. Ltd. for the construction, operation and reclamation of a red meat processing plant in the City of Lethbridge. The Board requested that each of the parties file a status report by March 15, 1999, with a recommendation on how they wish to proceed. Upon review of these recommendations, the Board will decide whether to dismiss the appeals, to hold them in further abeyance, or to direct that the appeals go forward.



**December 18, 1997**

Bottle Bin Bottle Depot  
(Roper Bottle Depot Ltd.)  
Edmonton  
(97-062)

On December 18, 1997, 425167 Alberta Ltd. operating as the Bottle Bin Bottle Depot filed an appeal regarding the issuance of Amending Approval 97-BCD-022-1 issued to Roper Bottle Depot by the Director of Chemicals Assessment and Management. The appeal was withdrawn on June 23, 1998 and the Board issued a Discontinuance of Proceedings on June 29, 1998.



**December 23, 1997**

Alberta Bottle Depot Association  
(Roper Bottle Depot Ltd.)  
Edmonton  
(97-063)

On December 23, 1997, the Alberta Bottle Depot Association filed an appeal regarding the issuance of Amending Approval 97-BCD-022-1 issued to Roper Bottle Depot by the Director of Chemicals Assessment and Management, for the operation of a beverage container and recycling depot. A preliminary meeting was held on January 13, 1998, and a hearing date was set for April 7, 1998, and then rescheduled for April 29, 1998, in Edmonton. Following the preliminary meeting of January 13, 1998, the Board found that there was new evidence, and decided to set aside their previous Report and Recommendations. The appeal was withdrawn by the Appellants on June 16, 1998 and the Board issued a Discontinuance of Proceedings on June 23, 1998.



**December 23, 1997**

Danadam Consulting  
Incorporated  
(Callingwood Bottle Depot)  
Edmonton  
(97-064)

On December 23, 1997, Danadam Consulting Incorporated filed a Notice of Appeal with respect to Approval 97-BCD-036 issued by the Director of Chemicals Assessment and Management Division to Stanley and Sharon Csutí for the operation of a beverage container depot operating as Callingwood Bottle Depot. On February 11, 1998, the Board issued a Decision dismissing their appeal on the basis of standing.



**December 31, 1997**

Young Kil Kim of Y & S Recycling Ltd.  
(Roper Bottle Depot Ltd.)  
Edmonton  
(97-065)

On December 31, 1997, Young Kil Kim filed an appeal of Amending Approval No. 97-BCD-022-1, issued to Nazmin Nurani and Zeini Virji-Nurani for the operation of a Beverage Container and Recycling Depot. This appeal was withdrawn on June 23, 1998 and the Board issued a Discontinuance of Proceedings on June 23, 1998.

## Appeals Received

### Date Filed

### Appellant(s)/Location

### Subject

**January 15, 1998**

Alan Iwaskow  
(Talisman Energy Inc.)  
Teepee Creek  
(98-001)

On January 15, 1998, Alan Iwaskow filed an appeal of Approval No. 1635-01-00 issued to Talisman Energy Inc. for the operation and reclamation of the Teepee Creek sour gas processing plant. The Board issued a Decision on April 30, 1998 dismissing the appeal for lack of standing and failure on the part of the Appellant to provide the Board with additional information it requested.



**February 3, 1998**

Glen and Debra Pashniak  
(Village of Marwayne)  
Marwayne  
(98-002)

On February 3, 1998, Glen and Debra Pashniak filed an appeal of Approval No. 964-01-00 issued to the Village of Marwayne to operate the Marwayne wastewater system. The appeal was withdrawn on November 6, 1998 and the Board issued a Discontinuance of Proceedings on the same date.



**February 11, 1998**

Mike J. Aiken for  
Consolidated Metis Locals  
Municipality of Wood Buffalo  
(Shell Canada Ltd.)  
Fort McMurray  
(98-003)

On February 11, 1998, the Consolidated Metis Locals of the Municipality of Wood Buffalo filed an appeal of Approval No. 48275-00-00, issued to Shell Canada Limited for the construction, operation and reclamation of the Lease 13 experimental oil sands processing plant. On April 3, 1998 the Board issued a Decision dismissing the appeal as the Appellant filed his Notice of Appeal 18 days outside of the time lines pursuant to section 84(4)(c) without justification or excuse that would cause the Board to exercise its discretion to proceed with this appeal.



**February 10, 1998**

G & J Fossen Ranch Ltd.  
(Discovery West Corporation/  
Magin Energy Inc.)  
Edmonton  
(98-004)

On February 10, 1998, G & J Fossen Ranch Ltd. filed an appeal for the issuance of Reclamation Certificate No. 36043, issued to Magin Energy. A hearing was held August 25, 1998 in Provost. On September 25, 1998 the Board issued a Report and Recommendations to the Minister of Environmental Protection recommending the appeal be dismissed which the Minister agreed to on October 5, 1998.



**February 17, 1998**

Wayne & Laurel Penson  
(Pembina Corporation  
(now Talisman Energy Inc.)  
Valleyview  
(98-005)

On February 17, 1998, Wayne and Laurel Penson filed an appeal of Reclamation Certificate No. 33463, issued to Pembina Corporation. Hearings were held on June 23, 1998 and July 13, 1998 in Grande Prairie. On September 18, 1998, the Board issued its Report and Recommendations to the Minister recommending that the appeal be allowed and that Talisman Energy Inc. be required to carry out further reclamation activities at the site and submit a new application for a reclamation certificate. This report was subsequently approved by the Minister on September 23, 1998. The Board issued a Cost Decision on October 5, 1998 denying the application for costs.

Date Filed

Appellant(s)/Location

Subject

February 24, 1998

Legal Oil & Gas Ltd./  
Charles Forster  
Edmonton  
(98-006)

On February 24, 1998, Legal Oil & Gas Ltd. filed an appeal of Environmental Protection Order No. 98-01, on the grounds that it is not the operator of the site in question. A mediation meeting was held in Edmonton on July 17, 1998 and on August 21, 1998. A hearing was set, and then changed to a mediation meeting on October 22, 1998. The Board has requested that each of the parties provide a status report by February 19, 1999.



February 24, 1998

Legal Oil & Gas Ltd./  
Charles Forster  
Edmonton  
(98-007)

On February 24, 1998, Legal Oil & Gas Ltd. filed an appeal of Environmental Protection Order No. 98-02, on the grounds that the contamination was caused by the original developer. A mediation meeting was held in Edmonton on July 17, 1998. A second mediation meeting was held on November 6, 1998. The Board has requested that the parties provide a status report by February 19, 1999.



February 24, 1998

Legal Oil & Gas Ltd./  
Charles Forster  
Edmonton  
(98-008)

On February 24, 1998, Legal Oil and Gas Ltd. filed an appeal of Environmental Protection Order No. 98-03, on the grounds that it is not the operator of the site in question. A mediation meeting was held in Edmonton on July 17, 1998. A hearing date of September 8, 1998 was set, but was adjourned by request by the Appellant. On September 23, 1998, the Board advised all parties that a hearing had been scheduled for October 22, 1998 in the Board's office. The Department requested that the hearing of October 22, 1998 be changed to a mediation and this request was granted. Following the mediation on October 22, 1998, the Appellant agreed to withdraw their Notice of Appeal, and the Board issued a Discontinuance of Proceedings on October 22, 1998.



February 24, 1998

Legal Oil & Gas Ltd./  
Charles Forster  
Edmonton  
(98-009)

On February 24, 1998, Legal Oil & Gas Ltd. filed an appeal, concerning an Environmental Protection Order No. 98-04, on the grounds that the well site has been shut in and the landowner prevented Legal from accessing the site. A mediation meeting was held in Edmonton on July 17, 1998, and a second mediation meeting was held on November 6, 1998. A hearing date is set for April 15 and 16, 1999.



February 25, 1998

Bill Lucey  
(ANG Gathering and Processing Ltd.)  
Calgary  
(98-010)

On February 25, 1998, Bill Lucey filed an appeal of Approval No. 21005-00-00, issued to ANG Gathering and Processing Ltd. for the construction and reclamation of the Central Foothills Gas Gathering System Pipeline Project. The Board issued a Decision on March 31, 1998 dismissing the appeal as Mr. Lucey's Notice of Appeal failed to meet any of the criteria related to standing necessary for the Board to continue its jurisdiction, raise specific environmental matters or show direct affects.

## Appeals Received

### Date Filed

### Appellant(s)/Location

**March 3, 1998**

Wendy Ault of  
Marwayne Bottle Depot  
Marwayne  
(98-011)

### Subject

On March 3, 1998, Wendy Ault of Marwayne Bottle Depot, filed an appeal of Administrative Penalty No. 97/25-PCD-AP-98/02, issued to the Marwayne Bottle Depot for failing to submit a quarterly container volume report by its due date. A resolution was reached and the Board issued a Report and Recommendations to the Minister on May 21, 1998 which the Minister agreed to on May 28, 1998.



**March 6, 1998**

North Springbank Water Co-op Ltd.  
(Emerald Bay Water and  
Sewer Co-op Ltd.)  
M. D. of Rocky View No. 44  
(98-012)

On March 6, 1998, North Springbank Water Co-op Ltd. filed an appeal and request for a Stay of Approval No. 18892-00-00, issued to Emerald Bay Water and Sewer Co-op Ltd. This approval concerned the construction and operation of a Class II wastewater treatment plant and a Class I wastewater collection system and a storm drainage system. On April 17, 1998, the Board issued a Decision dismissing the appeal as the first Notice of Appeal was filed on July 31, 1997, over six months after the 30 day deadline without sufficient reasons.



**March 9, 1998**

County of Red Deer No. 23 - Reeve  
Red Deer  
(98-013)

On March 9, 1998, R.L. Stonehouse of the County of Red Deer, filed an appeal of Approval No. 1176-01-00, issued to the Reeve of the County of Red Deer No 23 for the operation of a Class I wastewater treatment plant and a Class I wastewater collection system for the Hamlet of Spruce View. The appeal was subsequently withdrawn on March 24, 1998 and the Board issued a Discontinuance of Proceedings on March 25, 1998.



**March 10, 1998**

Walter Hardy  
(ADM Agri-Industries Ltd.)  
Lloydminster  
(98-014)

On March 10, 1998, Walter Hardy filed an appeal of Approval No. 144-00-00, issued to ADM Agri-Industries Ltd. for the Lloydminster oilseed crushing plant. As a result of a mediation meeting, held in Lloydminster on May 14, 1998, a resolution was reached and agreed to by the parties. The Board issued a Report and Recommendations to the Minister on May 28, 1998 which the Minister approved on June 1, 1998.



**March 16, 1998**

Bill Lucey  
(Bow River Pipe Lines Ltd.)  
Calgary  
(98-015)

On March 16, 1998, Bill Lucey filed an appeal of Approval No. 48460-00-00, issued to Bow River Pipe Lines Ltd. for the construction and reclamation of the Mainline Expansion - Princess Station North Loop. On April 3, 1998, the Board issued a Decision dismissing the appeal due to failure to meet criteria related to standing, insufficient environmental matters raised, lack of standing and a failure to respond to the Board's request for information.

Date Filed

Appellant(s)/Location

Subject

**March 18, 1998**

Roy Haugen  
(ADM Agri-Industries Ltd.)  
Lloydminster  
(98-016)

On March 18, 1998, Roy Haugen filed an appeal of Approval No. 144-00-00, issued to ADM Agri-Industries Ltd. for the Lloydminster oilseed crushing plant. As a result of a mediation meeting, held in Lloydminster on May 14, 1998, a resolution was reached and agreed to by the parties. The Board issued a Report and Recommendations to the Minister on May 28, 1998 which the Minister approved June 1, 1998.



**March 18, 1998**

Ron Milne  
(ADM Agri-Industries Ltd.)  
Lloydminster  
(98-017)

On March 18, 1998, Ron Milne filed an appeal of Approval No. 144-00-00, issued to ADM Agri-Industries Ltd. for the Lloydminster oilseed crushing plant. As a result of a mediation meeting, held in Lloydminster on May 14, 1998, a resolution was reached and agreed to by the parties. The Board issued a Report and Recommendations to the Minister on May 28, 1998 which he approved on June 1, 1998.



**March 18, 1998**

Gerald Smith  
(ADM Agri-Industries Ltd.)  
Lloydminster  
(98-018)

On March 18, 1998, Gerald Smith filed an appeal of Approval No. 144-00-00, issued to ADM Agri-Industries Ltd. for the Lloydminster oilseed crushing plant. As a result of a mediation meeting, held in Lloydminster on May 14, 1998, a resolution was reached and agreed to by the parties. The Board issued a Report and Recommendations to the Minister on May 28, 1998 which he approved on June 1, 1998.



**March 18, 1998**

William Kuzyk  
(ADM Agri-Industries Ltd.)  
Lloydminster  
(98-019)

On March 18, 1998, William Kuzyk filed an appeal of Approval No. 144-00-00, issued to ADM Agri-Industries Ltd. for the Lloydminster oilseed crushing plant. As a result of a mediation meeting, held in Lloydminster on May 14, 1998, a resolution was reached and agreed to by the parties. The Board issued a Report and Recommendations to the Minister on May 28, 1998 which he approved on June 1, 1998.



**March 18, 1998**

Dan Keating  
(ADM Agri-Industries Ltd.)  
Lloydminster  
(98-020)

On March 18, 1998, Dan Keating filed an appeal of Approval No. 144-00-00, issued to ADM Agri-Industries Ltd. for the Lloydminster oilseed crushing plant. As a result of a mediation meeting, held in Lloydminster on May 14, 1998, a resolution was reached and agreed to by the parties. The Board issued a Report and Recommendations to the Minister on May 28, 1998 which he approved on June 1, 1998.

## Appeals Received

### Date Filed

### Appellant(s)/Location

### Subject

**March 18, 1998**

Heather Taxbock  
(Kananaskis Mountain Helicopters)  
Calgary  
(98-023)

On March 18, 1998, Heather Taxbock filed an appeal of Application No.'s 980005 and 980006, for the granting of a licence for a heliport to Kananaskis Mountain Helicopters. Her letter was forwarded to the Department of Environmental Protection, as it referred to applications and not Approvals as required by the EPEA. Ms. Taxbock was informed that, should the applications result in Approvals, the ability to appeal would then surface.



**March 20, 1998**

George Miasnikoff  
& Urban Ore Farms Limited  
Devon  
(98-021)

On March 20, 1998, George Miasnikoff and Urban Ore Farms Limited filed an appeal of Environmental Protection Order No. 98-06, for the removal and disposal of Coke Fines and associated materials. A mediation meeting was held in Devon on June 8, 1998, and the parties decided to continue to negotiate. A further mediation meeting was held on August 12, 1998. Following this mediation, and in conjunction with a mediation agreement signed in relation to a corresponding Environmental Protection Order, the Board received a letter from the Appellant stating he withdraws his appeal. As a result, the Board issued a Discontinuance of Proceedings on August 13, 1998.



**March 20, 1998**

George Miasnikoff  
& Urban Ore Farms Limited  
Devon  
(98-022)

On March 20, 1998, George Miasnikoff and Urban Ore Farms Limited filed an appeal of Environmental Protection Order No. 98-07, for the implementation of a number of steps in a Reclamation Plan. A mediation meeting was held in Devon on June 8, 1998 and the parties decided to continue to negotiate. A further mediation meeting was held in Devon, on August 12, 1998. Following this mediation, a resolution was reached by the parties and the Board issued a Report and Recommendations to the Minister on August 13, 1998 which the Minister agreed to on August 18, 1998.



**March 27, and April 2, 1998**

Roy Haugen *et al*  
(ADM Agri-Industries Ltd.)  
Lloydminster  
(98-024 - 98-226)

On March 27 and April 2, 1998, Roy Haugen *et al* filed an appeal of Approval No. 144-00-00, issued to ADM Agri-Industries Ltd. for the Lloydminster oilseed crushing plant. As a result of a mediation meeting, held in Lloydminster on May 14, 1998, a resolution was reached and agreed to by the parties. The Board issued a Report and Recommendations to the Minister on May 28, 1998 which he approved on June 1, 1998.



**May 11, 1998**

Bill Lucey  
(Husky Oil Operations Ltd.)  
Calgary  
(98-227)

On May 11, 1998, Bill Lucey filed an appeal of Approval No. 208803-00-00, issued to Husky Oil Operations Limited. In a letter dated May 25, 1998, the Board requested Mr. Lucey provide specific information. On June 9, 1998, the Board returned Mr. Lucey's Notice of Appeal as per Decision 97-047 as he did not respond to the Board's request.

### Date Filed

### Appellant(s)/Location

**May 11, 1998**

Bill Lucey  
(Wild Rose Pipe Line Inc.)  
Calgary  
(98-228)

### Subject

On May 11, 1998, Bill Lucey filed an appeal of Approval No. 20842-00-00, issued to Wild Rose Pipe Line Inc. In a letter dated May 25, 1998, the Board requested Mr. Lucey provide specific information. On June 9, 1998, the Board returned Mr. Lucey's Notice of Appeal as per Decision 97-047 as he did not respond to the Board's request.



**May 20, 1998**

Bill Lucey  
(NOVA and TransCanada Pipelines Ltd.)  
Calgary  
(98-229)

On May 20, 1998, Bill Lucey filed an appeal of Energy and Utilities Board Decision No. U98084 (merger of NOVA and TransCanada Pipelines Ltd.). In a letter dated May 22, 1998, the Board advised that it had no jurisdiction to deal with a decision of the Energy and Utilities Board. On June 9, 1998, the Board returned Mr. Lucey's Notice of Appeal as per Decision 97-047.



**June 9, 1998**

Brian Bildson  
(Smoky River Coal Ltd.)  
Grande Prairie  
(98-230)

On June 9, 1998, Brian Bildson filed an appeal of Approval No.'s 11929-00-12 and 11933-00-05, issued to Smoky River Coal Ltd. for the construction and operation of the No. 12 Mine South B2 Project. On July 10, 1998, the Board wrote to the Appellant requesting clarification on a number of matters including "direct affects" and the fact that the matters had already been dealt with by the Energy and Utilities Board. A preliminary meeting was held November 10, 1998 and the Board issued a Decision on December 8, 1998 dismissing the appeal under section 87(5)(b)(i) of the Act.



**June 11, 1998**

Dr. Donald Jordan  
(Town of Rimbey - Mayor)  
Rimbey  
(98-245)

On June 11, 1998 Dr. Donald Jordan filed an appeal of Approval 1104-01-00, issued to the Mayor of the Town of Rimbey for the operation of two Class I wastewater collection system and a storm drainage system for the Town of Rimbey. The Board issued a Decision on October 7, 1998 dismissing the appeal as there were no sufficient reasons for an extension of the deadline for filing the appeal given by the Appellant.



**June 17, 1998**

Rudy & Gertie Mizera  
(Beaver Regional Waste Management  
Services Commission)  
Ryley  
(98-231)

On June 17, 1998, Rudy and Gertie Mizera filed an appeal of Approval No. 20754-00-01/ Amending Approval No. W1075, issued to Beaver Regional Waste Management Services Commission for the construction, operation and reclamation of a Class II landfill. A mediation meeting was held on September 9, 1998, in Ryley and a further mediation meeting was held on November 12, 1998, in Edmonton. No resolution was reached at the mediation meeting and a preliminary meeting was held on November 25, 1998. The Board issued a Decision on December 21, 1998 stating that Marilynn Fenske, Adelhardt Glombick and Rudy and Gertie Mizera are directly affected and dismissing Alice Mahlum's appeal as she failed to convince the Board that the amendment impacts her directly and personally. A hearing is scheduled for March 15 and 16, 1999.

### Date Filed

### Appellant(s)/Location

**June 22, 1998**

Adelhardt H. Glombick for  
Glombick Farms  
(Beaver Regional Waste Management  
Services Commission)  
Ryley  
(98-232)

### Subject

On June 22, 1998, Adelhardt H. Glombick filed an appeal of Approval No. 20754-00-01/ Amending Approval No. W1075, issued to Beaver Regional Waste Management Services Commission for the construction, operation and reclamation of a Class II landfill. A mediation meeting was held on September 9, 1998, in Ryley and a further mediation meeting was held on November 12, 1998, in Edmonton. No resolution was reached at the mediation meeting and a preliminary meeting was held on November 25, 1998. The Board issued a Decision on December 21, 1998 stating that Marilynn Fenske, Adelhardt Glombick and Rudy and Gertie Mizera are directly affected and dismissing Alice Mahlum's appeal as she failed to convince the Board that the amendment impacts her directly and personally. A hearing is scheduled for March 15 and 16, 1999.



**June 27, 1998**

Marilynn Fenske  
(Beaver Regional Waste Management  
Services Commission)  
Ryley  
(98-233)

On June 27, 1998, Marilynn Fenske filed an appeal of Approval No. 20754-00-01/ Amending Approval No. W1075, issued to Beaver Regional Waste Management Services Commission for the construction, operation and reclamation of a Class II landfill. A mediation meeting was held on September 9, 1998, in Ryley and a further mediation meeting was held on November 12, 1998, in Edmonton. No resolution was reached at the mediation meeting and a preliminary meeting was held on November 25, 1998. The Board issued a Decision on December 21, 1998 stating that Marilynn Fenske, Adelhardt Glombick and Rudy and Gertie Mizera are directly affected and dismissing Alice Mahlum's appeal as she failed to convince the Board that the amendment impacts her directly and personally. A hearing is scheduled for March 15 and 16, 1999.



**June 28, 1998**

Alice Mahlum  
(Beaver Regional Waste Management  
Services Commission)  
Ryley  
(98-234)

On June 28, 1998, Alice Mahlum filed an appeal of Approval No. 20754-00-01/ Amending Approval No. W1075, issued to Beaver Regional Waste Management Services Commission for the construction, operation and reclamation of a Class II landfill. A mediation meeting was held on September 9, 1998, in Ryley and a further mediation meeting was held on November 12, 1998, in Edmonton. No resolution was reached at the mediation meeting and a preliminary meeting was held on November 25, 1998. The Board issued a Decision on December 21, 1998 stating that Marilynn Fenske, Adelhardt Glombick and Rudy and Gertie Mizera are directly affected and dismissing Alice Mahlum's appeal as she failed to convince the Board that the amendment impacts her directly and personally.

Date Filed

Appellant(s)/Location

June 29, 1998

Edward W. Grumbach  
(Mayor - Town of Rimbe)  
Rimbe  
(98-235)

Subject

On June 29, 1998, Edward W. Grumbach filed an appeal of Approval 1104-01-01, issued to the Mayor of the Town of Rimbe for the operation of two Class I wastewater treatment plants, a Class II wastewater collection system and a storm drainage system. On September 30, 1998 a mediation meeting took place. Following this mediation, a resolution was reached and the Board issued a Report and Recommendations to the Minister on October 1, 1998 which the Minister agreed to on October 5, 1998.



June 25, 1998

Dennis Fenske  
(Beaver Regional Waster Management  
Services Commission)  
Tofield  
(98-236)

On June 25, 1998, Dennis Fenske filed an appeal of Amending Approval No. W1075, issued to Beaver Regional Waste Management Services Commission for the construction, operation and reclamation of a Class II landfill. The Board issued a Decision on July 14, 1998 dismissing the appeal on the grounds that Mr. Fenske failed to adequately respond and establish a basis for proceeding with the appeal.



July 9, 1998

Alan Gaskell  
(TransAlta Utilities Corporation)  
Whitewood  
(98-237)

On July 9, 1998, Alan Gaskell filed an appeal of Approval No. 11851-01-01 issued to TransAlta Utilities Corporation for the opening up, operation and reclamation of the Whitewood Coal Mine. The Board held a preliminary meeting on October 1, 1998 to consider the parties positions on the jurisdiction of the Board to hear the appeal. On October 21, 1998 the Board issued a Decision dismissing the appeal, as the appeal did not fall within the Board's jurisdiction.



July 17, 1998

Norman Zeer  
(County of Newell No. 4)  
County of Newell  
(98-238)

On July 17, 1998, Mr. Norman Zeer filed an appeal of Approval No. 49121-00-00 issued to the County of Newell No. 4 for the opening up, construction and reclamation of sand and gravel pit. The Board held a mediation meeting on September 28, 1998, however, the parties agreed to further review the details presented at the mediation. As a result of resolution on January 21, 1999 the Board issued a Report and Recommendations to the Minister on January 28, 1999 wherein the Minister agreed to on February 3, 1999.



June 30, 1998

Continental Lime Ltd.  
Exshaw  
(98-239)

On June 30, 1998, Continental Lime Ltd. filed an appeal of Approval No. 227-01-00, issued to Continental Lime Ltd. for the construction, operation and reclamation of the lime plant in Exshaw. On September 29, 1998 the Appellant withdrew their appeal and the Board issued a Discontinuance of Proceedings on September 30, 1998.

### Date Filed

### Appellant(s)/Location

### Subject

**August 12, 1998**

Solv-Ex Corporation  
Athabasca  
(98-240)

On August 12, Solv-Ex Corporation filed an appeal of Approval No. 16781, for the construction and operation of a plant for the recovery of mineral values from the mature fine tailings generated by the two oil sands commercial operations in Athabasca. On October 21, 1998 a mediation meeting was held. A further mediation meeting is scheduled for April 20, 1999.



**August 15, 1998**

Bob Collins  
(Gulf Canada Resources Ltd.)  
Fenn  
(98-242)

On August 15, 1998, Mr. Bob Collins filed an appeal of Reclamation Certificate No. 33489, issued to Gulf Canada Resources Limited for lands within SW Sec. 35 Tp. 36 Rge. 20 W4M in connection with or incidental to CPR Robert No. 4 well. A mediation meeting was held on November 5, 1998 in Fenn. Following this mediation, the appeal has been held in abeyance. Written status reports are due by March 15, 1999 from the parties, outlining their negotiations and how they wish to proceed with the appeal.



**August 18, 1998**

Marilynn Fenske  
(Beaver Regional Waste Management  
Services Commission)  
Ryley  
(98-241)

On August 18, 1998, Marilynn Fenske filed an appeal that concerned an Interim License No. 26835, for Beaver Regional Waste Management Services Commission which authorized the construction of facilities for storing and diverting surface runoff, in conjunction with a storm water management plan for a Class II landfill. The Board issued a Decision on October 20, 1998 dismissing the appeal as the Board lacks jurisdiction to hear appeals of the Interim Licences.



**August 27, 1998**

Richard Stelter  
(GMB Property Rentals Ltd.)  
Edson  
(98-243)

On August 27, 1998, Mr. Richard Stelter filed an appeal for the Variation of Approval No. 1069-01-00 issued to GMB Property Rentals Ltd., for the operation of a Class 1 wastewater treatment plant. The Director issued the Variation of Approval in response to a Ministerial Order, which followed from a previous Board hearing on an appeal by the Appellant of Approval No. 1069-01-00. On February 9, 1999, the Board issued a Decision dismissing the appeal as the Act is not designed to allow a new appeal to the Board from a variation of an approval due to a Ministerial Order.



**September 14, 1998**

Joanne Vang  
(Mr. C. Chase Hoffman)  
Turner Valley  
(98-244)

On September 14, 1998, Ms. Joanne Vang filed an appeal of Approval 17867-00-00, issued to Mr. C. Chase Hoffman for the opening up, construction and reclamation of a sand and gravel pit on SW 17-20-2-W5M located near Turner Valley. A mediation meeting was held on December 18, 1998 in Turner Valley and a resolution was reached. The Board issued a Report and Recommendations to the Minister on December 21, 1998 which the Minister agreed to on January 7, 1999.

Date Filed

Appellant(s)/Location

October 16, 1998

L. Buff Parry  
(Cardinal River Coals Ltd.)  
Edmonton  
(98-246)

Subject

On October 16, 1998, L. Buff Parry, on behalf of the Rocky Mountain Cree Smallboy Camp, filed an appeal of Approval No. 46972-00-00, issued to Cardinal River Coals Ltd. The approval authorizes the pre-development activities which represent the first phase of the overall mining project. The Board issued a Decision on January 18, 1999 dismissing the appeal.



October 22, 1998

Bodo Oilfield Maintenance Ltd.  
Edmonton  
(98-247)

On October 22, 1998, Bodo Oilfield Maintenance Ltd. filed an appeal of Administrative Penalty #98/05-PCD-AP-98/19. An administrative penalty was issued to Bodo Oilfield Maintenance Ltd. for the contravention of Sections 5(1) and 16(a) of the Pesticide Sales, Handling, Use and Application Regulation (AR 126/93). A hearing is scheduled for March 18, 1999 in Edmonton.



November 2, 1998

Dale Ladouceur  
(Cardinal River Coals Ltd.)  
Edmonton  
(98-248)

On November 2, 1998, Ms. Dale Ladouceur filed an appeal of Approval No. 46972-00-00, issued to Cardinal River Coals Ltd. The approval authorizes the pre-development activities which represent the first phase of the overall mining project. The Board issued a Decision on January 18, 1999 dismissing the appeal for failure to file a statement of concern.



November 12, 1998

Werner Schultz  
(Renaissance Energy Ltd.)  
Westlock  
(98-249)

On November 12, 1998, Werner Schultz filed an appeal of Reclamation Certificate No. 37213, issued to Renaissance Energy Ltd. On December 30, 1998 the Appellant withdrew his appeal and the Board issued a Discontinuance of Proceedings on the same day.



November 30, 1998

Terry O'Neill  
(Town of Olds)  
Olds  
(98-250)

On November 30, 1998, Terry O'Neill filed an appeal for the Amendment of Approval No. 1037-01-01, issued to the Town of Olds to construct a storm water detention pond to serve Park Meadows subdivision with discharge to the Town of Olds storm drainage system and ultimately Olds Creek. The appeal is pending as the Board has requested information from the Appellant by February 15, 1999.

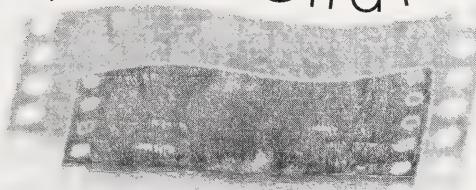


December 16, 1998

Ron W. Groves/  
Cabre Exploration Ltd.  
Calgary  
(98-251)

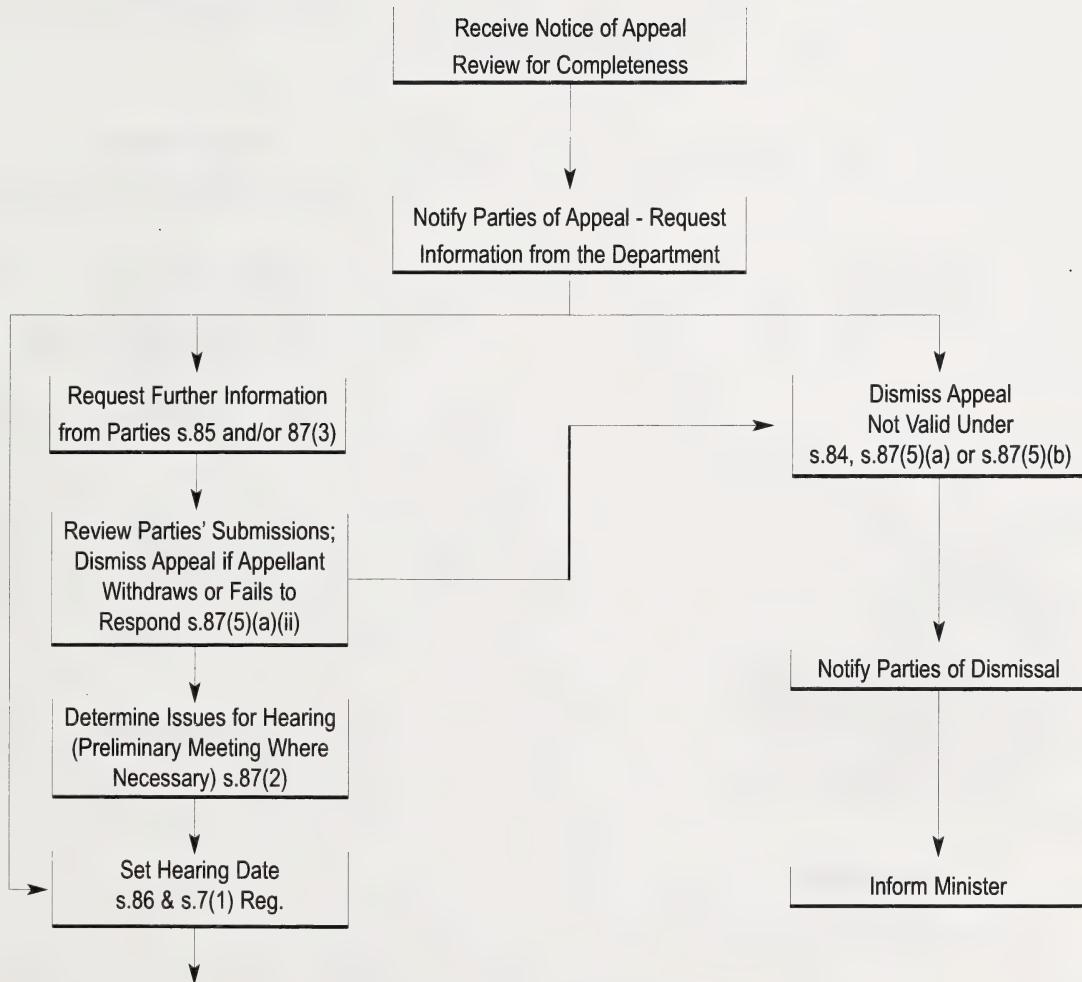
On December 16, 1998, Mr. Ron W. Groves on behalf of Cabre Exploration Ltd. filed an appeal of the decision of a Conservation and Reclamation Officer, Alberta Environmental Protection, to not issue a Reclamation Certificate to Cabre Exploration Limited. A mediation meeting is scheduled in Calgary on April 6, 1999.

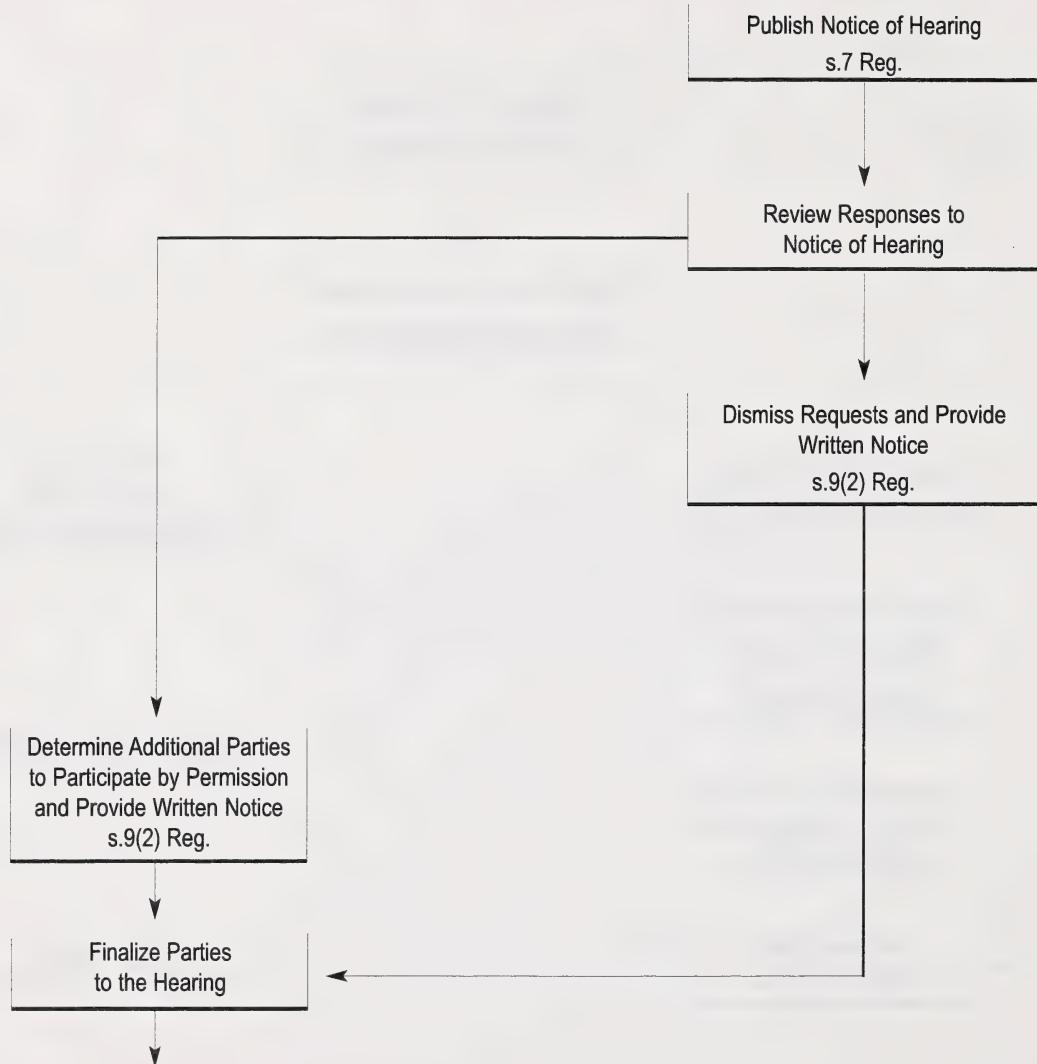
Procedures  
Flow Charts

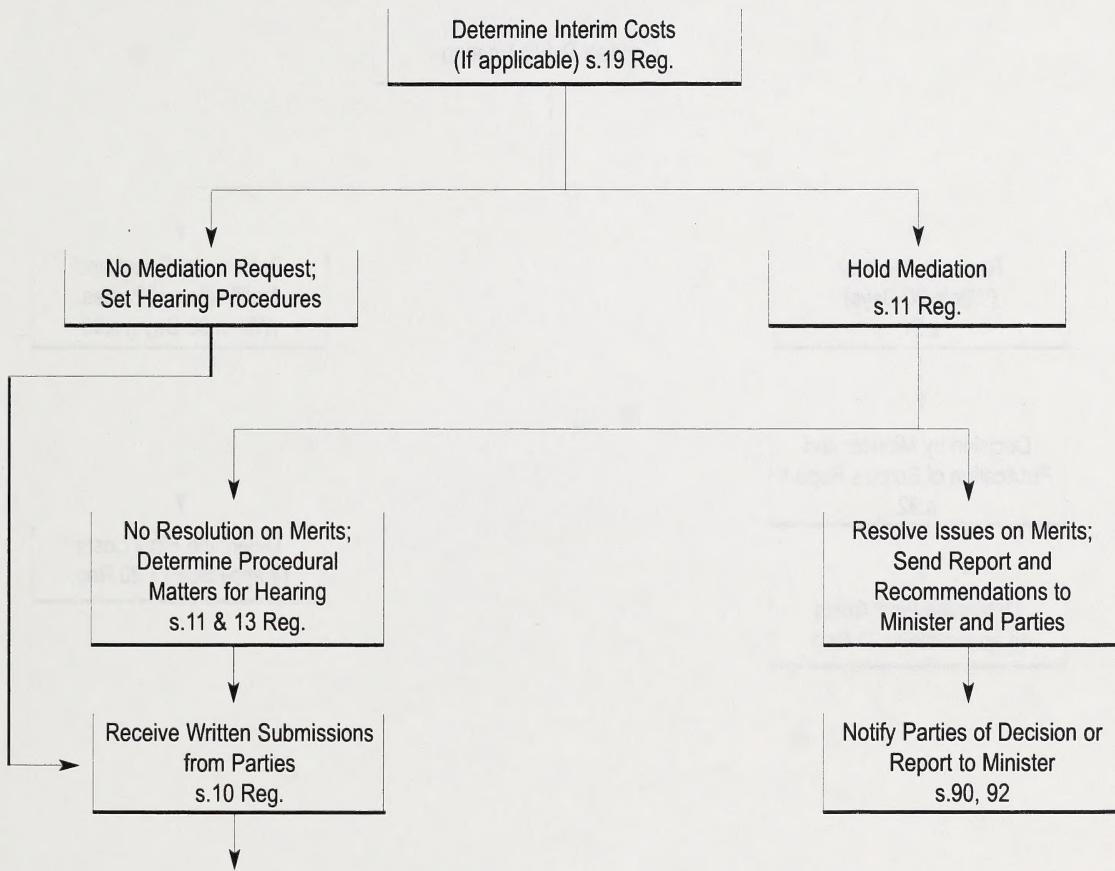




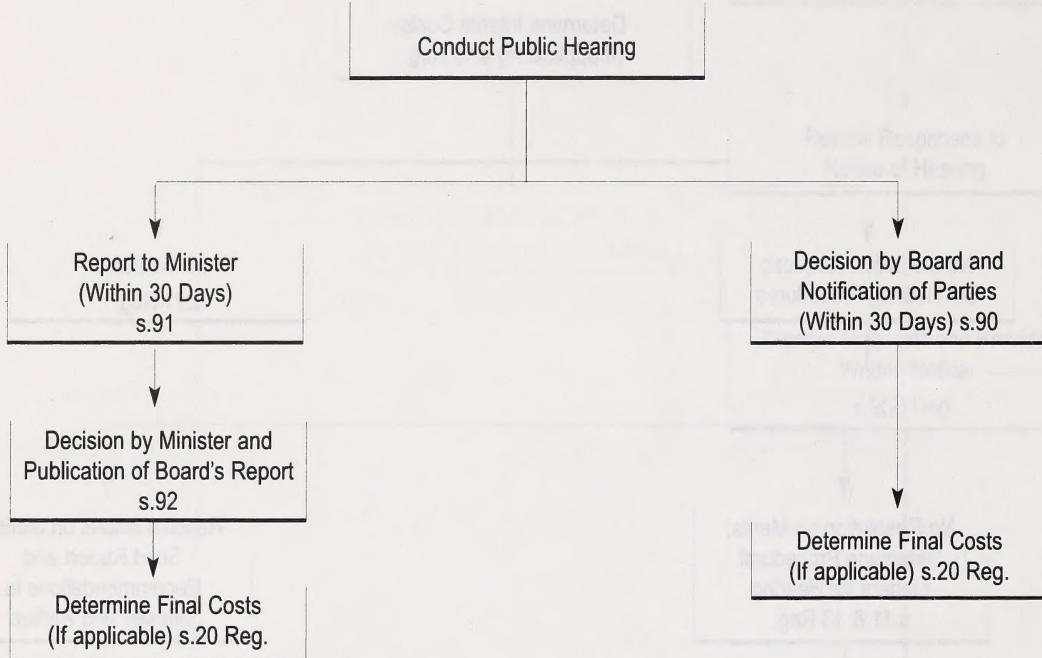
# Environmental Appeal Board Procedures







## Environmental Appeal Board Procedures



### Note

This flowchart is intended to provide a general overview of the Board's procedures. This chart is not intended to provide legal guidance. For specific information, please consult the Act, Regulations and the Rules of Practice of the Environmental Appeal Board.



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